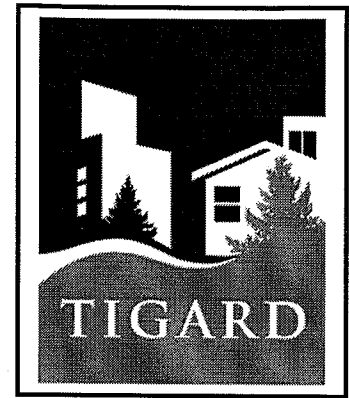




TIGARD CITY COUNCIL AND
LOCAL CONTRACT REVIEW BOARD
MEETINGS

September 12, 2006 6:30 p.m.

TIGARD CITY HALL
13125 SW HALL BLVD
TIGARD, OR 97223



PUBLIC NOTICE:

To request to speak to the City Council:

- Anyone wishing to speak on an agenda item should sign the appropriate sign-up sheet(s).
- If no sheet is available for the agenda item you would like to address:
 - Sign the Citizen Communication sign-up sheet
 - During Citizen Communications ask the Mayor if you may speak when the agenda item is considered by the Council.
 - The Mayor will determine whether public comment will be accepted.
- Sign the Citizen Communication sign-up sheet if you would like to address the Council on items not on the agenda. Citizens are asked to keep their remarks to two minutes or less. Longer matters may be set for a future agenda by contacting the Mayor or the City Manager.
- If you need assistance determining how to sign in, please speak to the staff greeter who will be near the entrance to Town Hall before the Council meeting.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A
TIGARD CITY COUNCIL AND
LOCAL CONTRACT REVIEW BOARD MEETINGS
SEPTEMBER 12, 2006

6:30 PM

- **STUDY SESSION**
 - Consideration of Cost of Living Adjustment for Management/Professional Group
 - Update on Washington County Cooperative Library Services (WCCLS) Levy
 - Discuss 2006/07 Pavement Major Maintenance Program – Phase 1 Contract
 - Discuss Significant Increases for Highway Construction Costs – City Projects
 - **EXECUTIVE SESSION:** The Tigard City Council will go into Executive Session to consult with legal counsel regarding litigation likely to be filed under ORS 192.660(2)(h). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
-

TIGARD CITY COUNCIL AND
LOCAL CONTRACT REVIEW BOARD MEETING

7:30 PM

1. **BUSINESS MEETING**
 - 1.1 Call to Order: City Council & Local Contract Review Board
 - 1.2 Roll Call
 - 1.3 Pledge of Allegiance
 - 1.4 Council Communications & Liaison Reports
 - 1.5 Call to Council and Staff for Non-Agenda Items
2. **PROCLAMATIONS**
 - 2.1 Proclaim September 17-23, 2006, as Constitution Week
 - 2.2 Proclaim September as National Drug Addiction Recovery Month
 - Mayor Dirksen

3. HONOR MURRAYHILL LITTLE LEAGUE ALL-STAR BASEBALL TEAM FOR THEIR PERFORMANCE AT THE LITTLE LEAGUE WORLD SERIES
 - Mayor Dirksen
4. PRESENTATION OF APPRECIATION TO THE CITY OF TIGARD FROM THE FRIENDS OF THE TUALATIN RIVER NATIONAL WILDLIFE REFUGE
 - Presentation to the City Council by a Representative from the Friends of the Tualatin River National Wildlife Refuge
5. CITIZEN COMMUNICATION (Two Minutes or Less, Please)
 - Tigard High School Student Envoy Jasmina Dizdarevic
 - Citizen Communications – Sign Up Sheet
 - Follow-up to Previous Citizen Communication
6. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:
 - 6.1 Approve Council Minutes for August 8, and 15, 2006
 - 6.2 Receive and File:
 - a. Council Calendar
 - b. Tentative Agenda
 - c. Fifth Tuesday Meeting Notes – August 29, 2006
 - 6.3 Appoint Kelly Johnson to the Park and Recreation Advisory Board (PRAB) – Resolution No. 06-_____
 - 6.4 Approve an Intergovernmental Agreement with Washington County to Share in “Transient Room Tax” Revenues
 - 6.5 Local Contract Review Board:
 - a. Approve Contract Awards to Century West Engineering Corporation for Design Services for the Ash Avenue Extension project and the 97th Avenue and 100th Avenue Sanitary Sewer Reimbursement
 - b. Award Contract to Landis & Landis for Construction of Pine Street – Street and Storm Drainage Improvements
 - c. Approve Amendment No. 2 to the Agreement with Murray Smith and Associates, Inc. for Professional Services for 550-Foot Reservoir No. 2
 - d. Purchase Seven Police Patrol Cars from Gresham Ford
 - *Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.*

7. CONSIDER AWARD OF HERITAGE TREE DESIGNATIONS
 - a. Staff Report: Public Works Department
 - b. Council Discussion
 - c. Consideration: Motion to Award Heritage Tree Designations to the Douglas Fir Tree located at 8275 SW Ross Street, Tigard, Oregon and the Monkey Puzzle Tree located at 14530 SW 103rd Avenue, Tigard, Oregon
8. CONSIDER ACCEPTANCE OF MATCHING FUNDS TO CONSTRUCT JIM GRIFFITH MEMORIAL SKATE PARK
 - a. Staff Report: Public Works Department
 - b. Council Discussion
 - c. Council Consideration: Resolution No. 06-_____
9. CONSIDERATION OF WRIT OF MANDAMUS CONCERNING 120-DAY EXPIRATION - LONGSTAFF CONDOMINIUMS (SDR2005-00011)
 - a. Staff Report: Community Development Department
 - b. Council Discussion
 - c. Council Consideration: Motion to approve the staff decision including all conditions of approval for the Longstaff Condominiums (SDR2005-00011)
10. COUNCIL LIAISON REPORTS
11. NON AGENDA ITEMS
12. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
13. ADJOURNMENT

i:\admicathylcca\2006\060912p.doc



Agenda Item No. Study Session
Meeting of 9.12.06

MEMORANDUM

TO: Mayor and City Council

FROM: Sandy Zodrow, Human Resources Director *Sandy*

RE: Consideration of Cost of Living Adjustment for Management Group

DATE: August 8, 2006

Approximately 87 employees belong to the Management/Supervisory/Confidential Group and are not represented by a collective bargaining agreement. These positions include department directors, managers, first line supervisors, planning staff, accountants, engineers and other professional and technical staff.

Each fiscal year the City Council considers and makes a determination on a cost of living adjustment (COLA) for this group of employees. The last COLA for this group was made on October 1, 2005. The Tigard Police Officers Association received a 3.2% increase on July 1, 2006 and the SEIU/OPEU group will receive a cost of living adjustment of 3.2% effective October 1, 2006.

A cost of living adjustment assists the City in maintaining a competitive market position with regard to its salaries. In prior years the Council has considered and elected to provide a cost of living adjustment for the Management Group which was consistent with that provided to the SEIU/OPEU bargaining unit.

We are seeking your Council's direction on this matter at your August 22, 2006 Study Session.

Thank you for your consideration.



MEMORANDUM

TO: Mayor and City Councilors
Craig Prosser, City Manager

FROM: Gus Duenas *[Signature]*
City Engineer

RE: Additional Streets for the Pavement Overlay Contract
2006-07 Pavement Major Maintenance Program – Phase 1

DATE: August 31, 2006

Morse Brothers, Inc. was awarded the 2006-07 Pavement Major Maintenance Program contract for pavement maintenance on the City streets at the Council meeting on August 15, 2006. The project was formally bid and awarded on a unit bid item basis with unit bid prices for specific items of work. The low bid submitted by the contractor at \$254,330.23 was the lowest by far with the next higher bidder at \$299,336.00. The Engineer's Estimate range was from \$290,000 to \$335,000. More importantly, the bid price submitted for the asphaltic concrete (pavement) bid item is \$52.65 per ton, which is significantly lower than the \$70 per ton in the Engineer's Estimate and the \$70 per ton submitted by the next higher bidder.

To take advantage of the exceptionally low prices in the contract and to address a much larger portion of the street maintenance backlog sooner rather than later, we propose to add the following additional streets to the contract for construction this fall:

- Durham Road (Summerfield Drive to Serena Way)
- 98th Avenue (Durham Road to Sattler Street)
- 124th Avenue (Walnut Street to Katherine Street)
- Ash Avenue and segments of intersecting streets (McDonald Street to Fanno Creek)
- 66th Avenue (just south of Hampton to Franklin Street)
- 67th Avenue (north of Baylor Street)

The current estimated amounts for the additional quantities on these streets add up to a total of \$580,000 with Durham Road being approximately \$230,000 of that amount. These numbers may change slightly as the scope of work on each of the additional streets is further refined and quantities are defined more precisely. However, the total amount should be relatively close to the current estimate. We had planned the overlay on Durham Road for the spring of 2007. However, we now have this rare opportunity to complete that street and others this fall at prices that we most likely will not see again in future bids. The additional quantities would increase the contract amount from \$254,330.23 to \$835,000 plus a contingency amount of \$85,000 for a total project commitment of \$920,000. The amount of \$950,000 is available in the FY 2006-07 CIP budget under the Street

Maintenance Fee Fund, and \$210,000 under the Gas Tax Fund for a total PMMP budgeted amount of \$1,160,000. That amount is sufficient for the proposed contract amendment and still leaves some funding available for additional streets (Phase 2 of the program) in the spring of 2007. Approval of the contract amendment will allow us to use Street Maintenance Fee dollars in the most cost effective way possible in light of rapidly increasing construction costs.

The public contracting rules allow original contracts to be substantially increased when the original contract was awarded through a formal competitive process, the contract documents include unit prices that can be used as the basis for determining the cost of the additional work, and a binding obligation exists on the parties covering the terms and conditions of the additional work. All these conditions are met with the contract awarded to Morse Brothers, Inc. In addition, the contractor agrees to perform the additional work under the terms, conditions and bid prices under the original contract.

We will be discussing the proposed contract amendment for additional work at the study session on September 12, 2006. If Council agrees with the proposed action, it will be submitted to Council for formal approval at the September 26, 2006 meeting.

c: Tom Coffee, Community Development Director
Bob Sesnon, Finance Director
Joe Barrett, Purchasing

PROCLAMATION

Constitution Week

WHEREAS, September 17, 2006, marks the two-hundred-nineteenth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary; and to the patriotic celebration which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week.

NOW THEREFORE BE IT RESOLVED THAT I, Craig Dirksen, Mayor of the City of Tigard, Oregon, do hereby proclaim the week of September 17 through 23, 2006 as

Constitution Week

in Tigard, Oregon and encourage all citizens to reaffirm the ideals of the Constitution by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties.

Dated this _____ day of _____, 2006.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tigard to be affixed.

Craig Dirksen, Mayor
City of Tigard

Attest:

City Recorder



Proclamation

National Alcohol and Drug Addiction Recovery Month September, 2006

WHEREAS, substance use and addiction result in huge societal and economic costs. It was recently estimated that the cost of untreated addiction in the United States is \$294 billion a year. Despite this staggering statistic, 76 percent of people in need of treatment for a problem with illicit drugs did not seek or receive treatment; and

WHEREAS, the toll substance abuse takes on family, friends, and community is immeasurable; and

WHEREAS, every day in every part of the United States, men, women, and youth are entering treatment and beginning the road to recovery and families are seeking hope and recovery in support programs and counseling; and

WHEREAS, National Alcohol and Drug Addiction Recovery Month celebrates the tremendous strides taken by individuals who have undergone successful treatment, families in recovery, and those in the treatment field who have dedicated their lives to helping people recover; and

WHEREAS, this year's theme, "Join the Voices for Recovery: Healing lives, Families, and Communities", invites all segments of society to join the recovery community in improving the quality of treatment programs and coordinated services in an effort to eradicate the disease of addiction; and

WHEREAS, the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Treatment; and the Office of National Drug Control Policy; invite all residents of Tigard to participate in National Alcohol and Drug Addiction Recovery Month.

NOW, THEREFORE BE IT RESOLVED THAT I, Mayor Craig Dirksen of the City of Tigard, Oregon, do hereby proclaim the month of September 2006 as

NATIONAL ALCOHOL AND DRUG ADDICTION RECOVERY MONTH

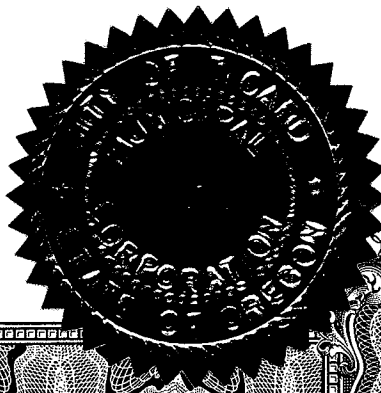
Dated this _____ day of _____, 2006.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tigard to be affixed.

Craig Dirksen, Mayor
City of Tigard

Attest:

City Recorder



Agenda Item No. 3
For Agenda of September 12, 2006

September 12, 2006, City Council Packet Information for

Agenda Item No. 3

– Honor Murrayhill Little League All-Star Team –

will be distributed with the September 8, 2006, City Council Newsletter

Agenda Item #
Meeting Date

4
September 12, 2006

COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Presentation of Appreciation to the City of Tigard from the Friends of the Tualatin River National Wildlife Refuge

Prepared By: Cathy Wheatley Dept Head Approval: CP City Mgr Approval: CP

ISSUE BEFORE THE COUNCIL

Receive the presentation of appreciation to the City of Tigard from Norman Penner of the Friends of the Tualatin River National Wildlife Refuge

STAFF RECOMMENDATION

N/A

KEY FACTS AND INFORMATION SUMMARY

- On April 25, 2006, the Tigard City Council approved Budget Amendment #11, to fund a \$1,500 contribution to the Tualatin River National Wildlife Refuge Grand Opening Ceremony.
- Mr. Norman Penner, a representative of the Refuge requested time on the City Council meeting agenda to issue a presentation of appreciation for the City's contribution.
- The Grand Opening Ceremony was held on June 3, at which time the Refuge was officially open to the public.

OTHER ALTERNATIVES CONSIDERED

N/A

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

This past Council action of support to the Refuge was in keeping with the Vision Statement's Growth and Growth Management Goal to "...protect the natural environment and provide open space throughout the community."

ATTACHMENT LIST

No attachments.

FISCAL NOTES

N/A

I:\admp\packet '06\060912\appreciation - wildlife refuge.doc

Agenda Item No. 6.1
For Agenda of 9.12.06



*Tigard City Council, City Center Development Agency and
Local Contract Review Board Meeting Minutes*

Date: August 8, 2006
Time: 6:30 p.m.
Place: Tigard City Hall, 13125 SW Hall Boulevard
Tigard, Oregon
Attending: Mayor Craig Dirksen Presiding
Councilor Sally Harding
Councilor Nick Wilson
Councilor Tom Woodruff
Absent: Councilor Sydney Sherwood

| Agenda Item | Discussion & Comments | Action Items (follow up) |
|--------------------------------------|---|---|
| Study Session | The City Council Study Session was called to order at 6:30 p.m. by Mayor Dirksen. | |
| Study Session – Administrative Items | <p>➤ <i>Oregon Business</i> – Tour Host Proposal – September 2007 – Showcase Business Community</p> <p>Assistant City Manager Newton reviewed the information distributed to the City Council. The <i>Oregon Business</i> Road Tour will occur next year about the time of the City's "birthday." This is an opportunity for community's to showcase different aspects. Staff would put together a proposal and work on the event if selected. Due date for a proposal is September 8, 2006.</p> <p>Mayor Dirksen noted that during the League of Oregon Cities conference, the City of Tigard Downtown is one of the featured tour sites. Interim Community Development Director Coffee noted this is a four-hour event. Senior Planner Nachbar is coordinating this event.</p> <p>The <i>Oregon Business</i> Road Tour would be a citywide event and could include the industrial areas and Washington Square. Councilor Wilson said several businesses in the City of Tigard could also be featured. Mayor Dirksen suggested asking the Chamber of Commerce and Tigard businesses to partner on this or take the lead. Mayor Dirksen noted activities such as this are important, especially as Tigard tries to draw the attention of developers for the Downtown.</p> | <p>Assistant City Manager Newton will contact the Chamber of Commerce to determine if they are interested in partnering or taking the lead in the <i>Oregon Business</i> Tour to be held in September 2007.</p> |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
|---------------------------------|---|--|
| | <ul style="list-style-type: none"> ➤ Oregon Consensus Program – Bull Mountain Convening Assessment <p>Assistant City Manager Newton reviewed an e-mail distributed to the City Council.</p> <ul style="list-style-type: none"> ➤ Fifth Tuesday Scheduled for August 29, 2006, 7-9 p.m. at the Water Building. Stacie Yost is unavailable to facilitate; staff checking with another facilitator. Deputy Recorder Carol Krager will take notes of the meeting. ➤ City Council received information for Agenda Item No. 7 regarding commercial signage at the Library. (This was the same information that was sent in last Friday's City Council newsletter envelope.) | <p>Assistant City Manager Newton will respond and thank the Oregon Consensus Program for the report.</p> <p>Staff has contacted Basil Christopher to determine if he would be available to facilitate.</p> |
| Study Session Entryway Signs | <p>Public Works Director Koellermeier reviewed progress. He distributed a photo of the Tigard Triangle Entryway sign with the new City of Tigard logo.</p> <p>Now that the Code Amendment has been approved by the City Council, it is possible to construct an entryway sign. Public Works Director Koellermeier has been soliciting landscape architects and noted that Councilor Wilson has assisted by identifying several firms capable of working on this type of project. Landscape architects are extremely busy and Public Works Director Koellermeier said two had agreed to prepare a proposal for entryway signs by the end of this week. Then, specific sites can be identified more definitively and the City staff can proceed with land acquisition and begin constructing the signs. In response to Councilor Woodruff, Public Works Director Koellermeier estimated that construction of sign(s) could begin within approximately three months unless there are issues with right-of-way acquisition. There was discussion about materials to be used in the sign construction with Mayor Dirksen noting the need to be flexible and to keep the costs reasonable. Public Works Director Koellermeier said \$50,000 had been budgeted for entryway signs this year.</p> <p>In response to Councilor Harding, Public Works Director Koellermeier said the logo on the Tigard Triangle sign is made of plastic and is sealed with a clear plastic. The new logo was placed on top of the old logo. Mayor Dirksen suggested more signage into the Tigard Triangle area be constructed when</p> | <p>Staff will update City Council at the end of October or early November on the status of entryway sign construction.</p> |

| Agenda Item | Discussion & Comments | Action Items (follow up) | | | | | | | | |
|---|---|---|---------------|-----|------------------|-----|-----------------|-----|-------------------|-----|
| | opportunities arise; i.e., the entrance from Hall to Dartmouth Street, the entrance at Pacific Highway and Dartmouth, and Pacific Highway and 72 nd Avenue. | | | | | | | | | |
| Executive Session | <p>Mayor Dirksen announced read the announcement for an Executive Session. The Tigard City Council went into Executive Session at 6:37 p.m. to consult with legal counsel regarding litigation likely to be filed under ORS 192.660(2)(h).</p> <p>Executive Session concluded at 7:22 p.m.</p> | | | | | | | | | |
| City Center Development Agency (CCDA) Meeting | <p>Chair Dirksen called the City Center Development Agency meeting to order at 7:30 p.m.</p> <p>City Center Development Agency Board Members Present: Chair Dirksen; Directors Harding, Wilson, and Woodruff</p> | | | | | | | | | |
| CCDA – Consider Adoption of the Tigard Downtown Implementation Strategy | <p>Senior Planner Nachbar presented the staff report. Minor changes to the Downtown Implementation Strategy were made.</p> <p>Senior Planner Nachbar said the document is intended to prioritize policy and actions for the downtown. The current version was presented at the June 24, 2006, workshop. The document has been endorsed and recommended for adoption by the City Center Advisory Commission at its June 14 meeting. The Strategy provides policy actions and a three-year action plan and a one-year work program. The work program contains specific projects and actions that the staff will take to carry out the Downtown Plan. CCDA adoption of the Strategy will set activities in motion. Some of the key projects for the year include developing a program for land assembly, marketing of the downtown, developing land use and design guidelines, preparing a Master Plan for Fanno Creek park and the public, determination of the feasibility of the Urban Creek Corridor, and refining the traffic circulation plan for the downtown. At the same time as work is being done on the above strategic planning projects, staff will be talking with property owners to build consensus on the overall strategy for the downtown.</p> <p>Chair Dirksen advised that the City Council, acting as the City Center Development Agency, has previously reviewed the Strategy and took part in earlier discussions. This is something the City Center Development Agency</p> | <p>Motion by Director Woodruff, seconded by Director Wilson, to adopt CCDA Resolution No. 06-01.</p> <p>The motion was approved by a unanimous vote of City Center Development Agency members present.</p> <table><tr><td>Chair Dirksen</td><td>Yes</td></tr><tr><td>Director Harding</td><td>Yes</td></tr><tr><td>Director Wilson</td><td>Yes</td></tr><tr><td>Director Woodruff</td><td>Yes</td></tr></table> | Chair Dirksen | Yes | Director Harding | Yes | Director Wilson | Yes | Director Woodruff | Yes |
| Chair Dirksen | Yes | | | | | | | | | |
| Director Harding | Yes | | | | | | | | | |
| Director Wilson | Yes | | | | | | | | | |
| Director Woodruff | Yes | | | | | | | | | |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
|-----------------------------|--|--|
| | <p>has been reviewing for a considerable amount of time; tonight the Strategy is before the City Center Development Agency in its final form for approval.</p> <p>Director Wilson commented that in every endeavor that is as complex as this one is, there will be slightly different visions on how to approach a project such as this. Given the recent public issues regarding some of the conflicts experienced, Director Wilson pointed out that the issues were not with the substance of the program so much as it was management style. Director Wilson said he thought this was a good plan and that he hoped it is successful.</p> <p>Director Woodruff said it was great to see the substantive issues identified in the Plan. Previously, discussions have been in generalities; this Plan fleshes out some of the specific tasks and projects that can be done in the next one to three years. The Plan gives specificity and illustrations about what the Downtown could look like if everything comes to fruition. He urged people to view the Plan on the City's website.</p> <p>Councilor Harding concurred with comments already made. She said that the Community Development staff did a good job putting the document together. She encouraged the public to take a look at the Plan on the website to see how this will take shape. She also referred to previous public discussions regarding the Plan.</p> <p>Mayor Dirksen noted the Plan was posted online as part of the packet information for tonight's meeting. After adoption, the Plan will be posted on the City's website where it can be easily found. Assistant City Manager Newton said a few hard copies would be available for people who do not have access to the Internet and suggested they call and request a copy.</p> <p>Council considered CCDA Resolution No. 06-01:</p> <p>A RESOLUTION ADOPTING THE TIGARD DOWNTOWN IMPLEMENTATION STRATEGY AS THE DOCUMENT TO GUIDE POLICIES AND ACTIONS FOR REDEVELOPMENT OF THE DOWNTOWN</p> | |
| Adjournment of CCDA Meeting | Meeting adjourned at 7:36 p.m. | <p>Motion by Director Harding, seconded by Director Wilson, to adjourn the meeting.</p> <p>The motion was approved by a unanimous vote of City</p> |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
|-------------------------------|---|--|
| | | <p>Center Development Agency members present.</p> <p>Chair Dirksen Yes Director Harding Yes Director Wilson Yes Director Woodruff Yes</p> |
| City Council Business Meeting | <p>1.1 Mayor Dirksen called the City Council and the Local Contract Review Board to Order at 7:37 p.m.</p> <p>1.2 Council Present: Mayor Dirksen, Councilors Harding, Wilson, and Woodruff.</p> <p>1.3 Pledge of Allegiance</p> <p>1.4 Council Communications & Liaison Reports</p> <p>Councilor Harding reported that there was a Washington County Coordinating Committee Meeting on August 7, 2006. The County is discussing a Traffic Impact Fee. The City of Sherwood indicated the County was interested in possibly having their own Traffic Impact Fee in a different format. Several computation methods have been discussed. A gas tax has also been under consideration. The Corporate Business Alliance had a fairly successful trip to Washington DC as had, in the past, County Chair Brian and County Commissioner Rogers. The WCCC is discussing a two-day trip to Washington to DC as well as partnering with local businesses to lobby for transportation funds. JPACT will be meeting on Thursday, August 10.</p> <p>Mayor Dirksen advised that last week he attended an activity called "Envision Oregon" in downtown Portland. This workshop was hosted by a large group of organizations, which included the Oregon Homebuilders Association and 1000 Friends of Oregon. The workshop was put on for the benefit of the Governor's Task Force on Land Use. Mayor Dirksen noted that Steve Clark from Tigard and Lake Oswego Mayor Judie Hammerstad serve on this Task Force. Similar workshops are being hosted around the State of Oregon during this summer to gather input for the Task Force to use as they consider and make recommendations to the Governor and Legislature on land use, planning, and potential changes. This was a very "hands on" workshop whereby a lot of information, attitudes</p> | |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
|----------------------------------|---|--|
| | <p>and views were gathered for use by the Task Force.</p> <p>1.5 Call to Council and Staff for Non-Agenda Items: None</p> | |
| <p>2. Citizen Communications</p> | <p>- Mark Padgett, 12974 SW Princeton Lane, Tigard, OR 97223, offered congratulations to the Mayor on his "imminent reelection."</p> <p>Mr. Padgett said he wanted to mention an issue that has come to the forefront because of what is now occurring in the unincorporated area. He said that both he and Councilor Wilson are former members of the City Planning Commission. The Planning Commission is mandated by State law, but the membership and makeup of the Planning Commission is under the purview of the City Council. Mr. Padgett noted that current Planning Commission members can include up to two people who do not live inside the City of Tigard. Mr. Padgett said the theory behind this was to have people who live within the "area of interest" be able to have some say in how planning is coordinated since that area would likely come into the City of Tigard; however, this is probably no longer the case. In general, this means that there could be people on the Planning Commission who do not own property within the City and are not City residents, sitting in on quasi-judicial hearings, making what is, in effect, law for the City of Tigard. Mr. Padgett said these land use decisions go into the Code and include Comprehensive Plan Amendments, which become part of the City Code. He said he does not think he is the only one who now feels uncomfortable with having people from outside the City who will either be in another City or remain in an unincorporated area making law for the citizens of Tigard at a municipal level.</p> <p>Mr. Padgett suggested the City Council change the Planning Commission membership policy and limit membership to property owners and/or residents of the City of Tigard. He said the Council might want to "grandfather" in the people who are now serving on the Planning Commission.</p> <p>Mr. Padgett said he did not feel "too badly" about city-owned property possibly ending inside the new City, because this property will require their City services without "us" contributing to their tax base. "So, let them see how it feels for a change."</p> | <p>Assistant City Manager Newton advised staff would review the wording with regard to Planning Commission membership and report back to City Council within the next two weeks.</p> |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
|-------------|--|--------------------------|
| | <p>Mayor Dirksen said he thought Mr. Padgett's point regarding Planning Commission membership was well taken. Councilor Wilson noted he wrote a letter recently to Representative Krummel and pointed out that Tigard has always had members from Bull Mountain on our Boards and Committees. He said he agreed with Mr. Padgett that it is inappropriate to have people from another City serving on our Planning Commission.</p> <p>Mr. Padgett noted he was especially concerned because the Planning Commission makes laws. Councilor Wilson said there has been a "sea change" in the Urban Services Agreement and a shift in 20 years of policy and it is time for us to catch up.</p> <p>- Gretchen Buehner, 13249 SW 136th Place, Tigard, Oregon, added to Mr. Padgett's comments that there are business and property owners within the City of Tigard who are not residents. She said that it was common for cities to allow people who own property who are not residents to serve on the Planning Commission.</p> <p>Ms. Buehner raised an issue regarding the Planning Commission. She noted that on tonight's Consent Agenda alternate Jeremy Vermilyea will be appointed to the Planning Commission. Mr. Vermilyea is the last alternate and it is likely the City will be losing one or two additional Commissioners by the end of the year. She recommended City Council direct staff to immediately begin looking for replacements. She added that it would be a good idea to name a couple of alternates so they can "get up to speed" before they are appointed. Mayor Dirksen said he has already started talking to the City's Volunteer Coordinator to publish an advertisement for applicants. Ms. Buehner suggested that membership be focused more on those who are "professionals" in the business. She noted the current public members are great members, but there is a need for members who have expertise in planning, legal, or architecture. Mayor Dirksen said he thought the Charter stipulates some requirements for membership and that the City Council would follow those guidelines.</p> <p>In response to a comment from Councilor Woodruff, Ms. Buehner said she would like to discuss how to retain Planning Commission members in a "different environment."</p> | |

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| | <p>- David Mielke, 600 Hidden Ridge, Irving, TX 75038, National Municipal Affairs Manager with Verizon introduced himself and Mr. Richard Stuart, Associate General Counsel for Verizon. Mr. Mielke said they would like to provide public testimony on Agenda Item 5 regarding revisions to the Tigard Municipal Code for a right-of-way usage fee. After brief discussion with the Council, Mayor Dirksen advised Mr. Mielke that he would be given an opportunity to speak to the City Council. In response to a question from Legal Counsel Firestone, Mr. Mielke advised he would only like to speak during Agenda Item No. 5; Agenda Item No. 6 did not propose changes to the Tigard Municipal Code that were of concern to Verizon.</p> <p>Councilor Harding asked a follow-up question regarding Mr. Padgett’s comments. She referred to his statement regarding the Planning Commission amending Code. Assistant City Manager Newton confirmed that amendments to the Development Code are placed before the City Council for final action; the Planning Commission forwards its recommendations on such amendments. Councilor Wilson noted the Commission does make quasi-judicial land use decisions, which are final unless appealed.</p> | | | | | | | | | |
| 3. Consent Agenda | <p>Mayor Dirksen reviewed the Consent Agenda:</p> <p>3.1 A pprove Council Minutes for June 20, 27, July 6 and 11, 2006</p> <p>3.2 R eceive and File:</p> <p> a. Council Calendar</p> <p> b. Council Meeting Tentative Agendas</p> <p>3.3 D esignate the Planning Commission as the Comprehensive Plan Update Steering Committee – Resolution No. 06-46</p> <p>A RESOLUTION TO DESIGNATE THE PLANNING COMMISSION AS THE STEERING COMMITTEE FOR THE COMPREHENSIVE PLAN UPDATE PROCESS</p> <p>3.4 Appoint Jeremy Vermilyea to the Planning Commission – Resolution No. 06-47</p> <p>A RESOLUTION APPOINTING JEREMY VERMILYEA AS A PLANNING COMMISSIONER</p> | <p>Motion by Councilor Wilson, seconded by Councilor Woodruff, to approve the Consent Agenda.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table> | Mayor Dirksen | Yes | Councilor Harding | Yes | Councilor Wilson | Yes | Councilor Woodruff | Yes |
| Mayor Dirksen | Yes | | | | | | | | | |
| Councilor Harding | Yes | | | | | | | | | |
| Councilor Wilson | Yes | | | | | | | | | |
| Councilor Woodruff | Yes | | | | | | | | | |

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| | <p>3.5 Approve Budget Amendment #1 to the FY 2006-07 Budget to Increase Appropriations in the Sanitary Sewer Division for Purchase of a Replacement Backhoe – Resolution No. 06-48</p> <p>A RESOLUTION APPROVING BUDGET AMENDMENT #1 TO THE FY 2006-07 BUDGET TO INCREASE APPROPRIATIONS IN THE SANITARY SEWER DIVISION FOR PURCHASE OF A REPLACEMENT BACKHOE</p> <p>3.6 Approve Budget Amendment #2 to the FY 2006-07 Budget to Increase Appropriations in the Parks Capital Projects for Purchase and Installation of a Play Structure at Northview Park – Resolution No. 06-49</p> <p>A RESOLUTION APPROVING BUDGET AMENDMENT #2 TO THE FY 2006-07 BUDGET TO INCREASE APPROPRIATIONS IN THE PARKS CAPITAL PROJECT BUDGET WITHIN THE COMMUNITY INVESTMENT PROGRAM FOR PURCHASE AND INSTALLATION OF A PLAY STRUCTURE AT NORTHVIEW PARK</p> <p>3.7 Approve Budget Amendment #3 to the FY 2006-07 Budget to Increase Appropriations in the Water, Sanitary Sewer, and Stormwater Capital Projects for Funding of the Water Building Remodel – Resolution No. 06-50</p> <p>A RESOLUTION APPROVING BUDGET AMENDMENT #1 TO THE FY 2006-07 BUDGET TO INCREASE APPROPRIATIONS IN THE WATER, SANITARY SEWER, AND STORMWATER CAPITAL PROJECT BUDGETS WITHIN THE COMMUNITY INVESTMENT PROGRAM FOR FUNDING OF THE WATER BUILDING REMODEL</p> <p>3.8 Local Contract Review Board:</p> <ul style="list-style-type: none"> a. Award Contract for Design Services for Phase 2 (Commercial Street Streetscape) of the Tigard Downtown Comprehensive Streetscape Design to OTAK, Inc. b. Award Contract for the Construction of the Tualatin River Trail to RC Landworks, Inc. c. Reject Bids for the Construction of Hall Boulevard Sidewalk | |
| 4. Public Hearing | Mayor Dirksen opened the public hearing. | Motion by Councilor |

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| (Quasi Judicial) to Consider the Annexation of the Rider Property (ZCA 2006-00001) | <p>Legal Counsel Firestone read a prepared statement regarding the quasi judicial procedure to be followed for this hearing. Copies of this statement were available at the entry of the meeting room and a copy is on file in the City Recorder's office.</p> <p>Mayor Dirksen asked for Declarations or Challenges. Councilor Harding noted she has driven by the site. All members of City Council present indicated they were familiar with the application. There were no challenges from the audience pertaining to the Council's jurisdiction to hear this matter nor was there a challenge to the participation of any member of Council.</p> <p>Community Development Director Coffee introduced Associate Planner Eng who presented the staff report to the City Council. Ms. Eng advised the applicants were the Tigard-Tualatin School District 23J and Mrs. Alberta Rider, represented by Milstead & Associates. The applicants request annexation of 1.26 acres into the City of Tigard to connect to sewer. She referred to a map and noted the proposed territory, located on the south side of Bull Mountain Road and east of SW 133rd Avenue, includes one residential parcel with the address 13030 SW Bull Mountain Road. The proposed territory will be zoned R-7 upon annexation. The proposed territory is an island of unincorporated territory contiguous to the City of Tigard on four sides. The territory is adjacent to SW Bull Mountain Road on the northern boundary and borders the Alberta Rider School on three sides. ORS Chapter 222 provides for annexation of contiguous territory and of islands. Staff notified all affected agencies and interested parties as required, and received no objections to the proposal. Affected agencies, including City departments, did not indicate that serving the proposed territory would reduce their capacity to provide services to the entire City and to the unincorporated areas they already serve.</p> <p>Ms. Eng advised that the applicable review criteria are ORS Chapter 222, Metro Code Chapter 3.09, City of Tigard Comprehensive Plan Policies 10, Community Development Code Chapters 18.320 and 18.390.</p> <p>Staff reviewed the proposal for compliance with the applicable review criteria and found the proposal meets the criteria. Staff findings are detailed in the Staff Report, also referred to as Exhibit D.</p> | <p>Woodruff, seconded by Councilor Wilson, to adopt Ordinance No. 06-10, with the amendments noted by staff.</p> <p>Discussion on the motion followed. Councilor Harding asked about whether there was any way to prevent development should the property be annexed with the zoning as it is now. Community Development Director Coffee noted the annexation was being done to facilitate prevention of a potential health hazard on this property. The sewer connection was made with the understanding that the property would be annexed. The development of the property is separate from the act of annexation. It would be difficult to approve property limitations, which require negotiation with the property owner. Mayor Dirksen said he thought that because the property was already inside the Urban Growth Boundary and already zoned for urban development, whether it is annexed to the City or not would not impact the ability for the property to be developed. Legal Counsel Firestone agreed that the Mayor's statement was essentially accurate; when annexed it will have the City's zoning and arguably if it were left in the County it could be developed "more densely." Once annexed and within the City's jurisdiction, the City could participate in discussions about preserving the property as mentioned. Mayor Dirksen noted the City would especially be in a good</p> |

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| | <p>Ms. Eng advised there were two scrivener's errors on Page 2, Section 1 of the ordinance. The word "parcels" should be changed to "parcel."</p> <p>Public Testimony: Mayor Dirksen asked if there was a representative of the applicant present. A member of the audience indicated they were representing the applicant, but did not wish to speak.</p> <p>No public testimony was offered.</p> <p>Ms. Eng advised that the staff recommends approval of ZCA 2006-00001 by adoption of the ordinance Ms. Eng advised she had a copy of the corrected version of the ordinance for the City Council regarding the scrivener's error she noted earlier in her verbal staff report to the City Council. She identified the corrections on Page 2, Section 1, where two uses of the word "parcels" should be changed to "parcel."</p> <p>Mayor Dirksen closed the public hearing.</p> <p>Council discussion followed.</p> <p>Mayor Dirksen said the subject property has a house on it. The lady who resides there is a long-time resident of the Tigard community; in fact, her residence pre-dates the Tigard community and is a log cabin. Mayor Dirksen suggested that if the annexation is approved, the City approach Mrs. Rider to determine if she would consider having her residence named a historic building in the City of Tigard. He also said he would like to see this home preserved in perpetuity and to ask her for right of first refusal if at any time she wishes to sell her property so the City could acquire it to maintain as a historical property. Councilor Harding said she also thought of this and said she wondered how much interest the School District has in the property. Councilor Harding said it was her understanding that Mrs. Rider sold her property so that homes would not be developed. Councilor Harding said she was not really in favor of having this property zoned R-7. Mayor Dirksen asked if there was an alternative zoning that could be used, which would "come under the heading of preservation" to allow or require preservation. Community Development Director Coffee responded that if you get into historical designations for preservation you might encounter a problem, because you would deprive the owner of another use. Community Development Director Coffee said he would recommend the home be named</p> | <p>position if it could obtain the "right to first refusal" and thereby gain direct control to prevent any kind of development. Councilor Wilson noted that this is effectively the School District's property. Legal Counsel Firestone said that if the property is developed, it would likely be school oriented. Mayor Dirksen said it may well be that the School District would be interested in entering to a partnership with the City to create a historic site as it would make an excellent educational tool. This would be something for a future discussion. Mayor Dirksen said he thought the issue of development, whether the property is in the City or not, is moot as to its exposure to development.</p> <p>Mayor Dirksen asked if there was any further discussion. There being none, a roll-call vote was taken.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Wilson Yes Councilor Woodruff Yes</p> <p>Mayor Dirksen welcomed Mrs. Rider to the City.</p> |

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| | <p>as a historic structure and to seek the cooperation of the owner to preserve it. Mayor Dirksen asked that if the zoning were to be changed, then this would be putting a burden on the owner? Community Development Director Coffee said, "Right, the R-7 zoning is a standard residential zone. We don't have zones per se for preservation...this is probably the most efficient zone, given the circumstances. But, I think negotiations with the property owner would get you to where you want to go." Mayor Dirksen asked if the property owner were to consent to the historic overlay that in itself would preserve the property from development, would it not? Legal Counsel Firestone said it would not absolutely preclude development, but it would create a process for any changes. Mayor Dirksen said he would like to see the historic designation be pursued with Mrs. Rider's consent. Legal Counsel Firestone said it is his understanding that the School District would need to be involved in that Mrs. Rider retains a life estate. Mayor Dirksen recommended that a dialogue be begun immediately after the annexation is processed. Mayor Dirksen noted that Mrs. Rider is the namesake of the school property that surrounds her home and she is certainly a person of importance in the City of Tigard.</p> <p>Councilor Woodruff said that because annexation carries with it emotional tones these days, he asked for clarification from staff that this is a non-controversial annexation that has been requested by the owner and does not infringe on any other interests that people might have on this piece of property. Community Development Director Coffee said Mrs. Rider requested that her property remain outside of the City when the school property was annexed. Circumstances on the property have required her to request a sewer connection and that requires annexation. Mrs. Rider and the School District have consented to the annexation. Community Development Director Coffee noted the lack public comment tonight and no negative comments.</p> <p>Council considered the proposed ordinance:</p> <p>ORDINANCE NO. 06-10 – AN ORDINANCE ANNEXING 1.26 ACRES, APPROVING RIDER ANNEXATION (ZCA2006-00001), AND WITHDRAWING PROPERTY FROM THE TIGARD WATER DISTRICT, WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT, WASHINGTON COUNTY URBAN</p> | |

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| | ROADS MAINTENANCE DISTRICT; WASHINGTON COUNTY STREET LIGHTING DISTRICT #1, AND THE WASHINGTON COUNTY VECTOR CONTROL DISTRICT | | | | | | | | | |
| 5. Consider Revisions to the Tigard Municipal Code Incorporating a Right-of-Way Usage Fee | <p>Right-of-Way Administrator Werner reviewed the staff report.</p> <p>The ordinance will incorporate a right-of-way usage fee into the Tigard Municipal Code. The usage fee will be a fee for maintenance of the right of way by utilities where there is no franchise agreement in effect. The fee is set at the current franchise fee rate so it would be revenue neutral. Therefore, if a utility has a franchise fee it would be deducted from the right-of-way fee and no money would be owed. Exceptions would apply to City water and sewer, which are currently not paying a franchise fee; therefore, this will be a new fee. This ordinance would ensure payment to the City in the absence of a franchise agreement. Ms. Werner noted there now exists a couple of situations where there is no franchise agreement in effect, so this is a way to clarify that fees are to be paid if a franchise agreement is not in effect.</p> <p>Ms. Werner advised of additional issues addressed in the ordinance:</p> <p>1. The franchising and right-of-way use obligations – the current Code requires a franchise for utilities in the right of way. The amendment will clarify that if the utility is in the right of way without a franchise, they are subject to the provisions of the Code. If the utility does enter into a franchise agreement, the terms of franchise may vary from the Code; the franchise will “control.”</p> <p>2. Permitting and construction requirements. Previously, the City had a telecommunications ordinance that had some permitting and construction standards within it, and there was also a “work in the right of way” section that applied more generally with some inconsistent standards. All requirements are now being moved into one chapter so it will be clear about work in the right of way.</p> <p>Ms. Werner advised that staff has talked with many utilities on this matter. A draft of the proposed changes was sent to all of the current franchisees and other users of the right of way. Comments were received from Verizon, MCI, NW Natural, and Clean</p> | <p>Motion by Councilor Woodruff, seconded by Councilor Wilson, to adopt Ordinance No. 06-11 as amended. Councilor Woodruff clarified the amendment is the amendment read by Legal Counsel Firestone.</p> <p>Mayor Dirksen said that he thinks this ordinance will be of great benefit to the City as a way to utilize our existing rights of way in a more efficient manner.</p> <p>Motion was approved by a majority vote of City Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>No</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table> | Mayor Dirksen | Yes | Councilor Harding | No | Councilor Wilson | Yes | Councilor Woodruff | Yes |
| Mayor Dirksen | Yes | | | | | | | | | |
| Councilor Harding | No | | | | | | | | | |
| Councilor Wilson | Yes | | | | | | | | | |
| Councilor Woodruff | Yes | | | | | | | | | |

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| | <p>Water Services. Ms. Werner referred to an e-mail communication from Bruce Griswold of Clean Water Services, which is on file in the City Recorder's office. The Clean Water Services e-mail said:</p> <p>"It is the understanding of Clean Water Services that adoption of the revised Franchise Utility Ordinance now under consideration by the Tigard city Council will in no way impact the remittances otherwise due from the City of Tigard to Clean Water Services, under the current Intergovernmental Agreement between the two parties. It is the District's further understanding that the Franchise Fee and Right-of-Way Usage Fee (specifically sections 15.06.090 and 15.06.100) do not apply and will not be applied to Clean Water Services."</p> <p>Ms. Werner said the reason this would not apply to Clean Water Services is because special districts and County service districts are not subject to the franchising or the developer usage fee portion of the Code. In response to a question from Mayor Dirksen, Ms. Werner said she was in agreement with the above statement made by Clean Water Services.</p> <p>Councilor Woodruff noted the previous discussions on this matter. He referenced that by applying this to City water and sewer would allow a way for those funds to be used for operational purposes and to have more flexibility. He said it was his recollection that he said he would be in favor of this if it did not result in a rate increase to residents. He said he did not see anything in the proposed ordinance that says anything about not increasing sewer and water rates. Ms. Werner said it was her understanding that there will not be a rate increase immediately; in the future, it is a possibility. She noted it was her understanding that when this went through the budget process, no rate increase was intended to occur immediately. Councilor Wilson asked if Ms. Werner was saying that ultimately we will have some substantial infrastructure needs such as new water sources, etc., which would require the City to raise rates sooner than we would have without what is, in effect, a transfer of money to the General Fund.</p> <p>Councilor Harding said she thinks this is confusing because what Councilor Wilson is referring to is a right-of-way fee on the water utility. She said the reason for the provision is to shift money to the General Fund, and it would not necessarily be used for water infrastructure. While she said she was not really in favor of it, this Council authorized three water rate</p> | |

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| | <p>increases of 7 percent per year for the next three years. It does not appear that this will be enough and there will end up being water revenue bonding to pay for infrastructure needs. She says the way she looks at this ordinance is "when people say it frees up money, it doesn't free up money. What it does is add some fat or cream that we can move around in the General Fund. It wouldn't stay in the water fund; it wouldn't stay in these other funds. And, when we discussed it at this table before, I was concerned about water and sewer. And, I was told, 'Well, it's going to be revenue neutral, it's not changing.' So, yes, on this paper that we have here, it shows it will add a substantial increase...\$287,000 a year...it isn't necessarily a rate increase, but it is a fee on top of the rate, if you will. It goes to our constituency...just like the franchise fee..."</p> <p>Mayor Dirksen observed that the money would transfer out of the fund, but people's bill would not be raised. Councilor Woodruff noted that Councilor Wilson's point was that as water expenses increase, this would "add to that pot" and at some point, there will have to be a rate increase. The question is, if we do this, will the rate increase have to come sooner than it would without it. Councilor Wilson noted we carry a surplus; we have a fund balance that is carried over from year to year in the water and sewer funds because we will eventually have increases in costs. On the other hand, our General Fund is in a tighter situation and we have taken steps to enhance the General Fund revenues through fees and charges over the years. Eventually we will have to have a local option levy.</p> <p>Councilor Harding agreed with Councilor Wilson and noted that a \$287,000 increase will probably not negate the need for something "like that" and if we keep adding "all of these small little fees...I'm told I can't call a tax, but to me it's a tax, then when it comes time when we do really need...say...the constituency or electorate wants to have something for parks more than what we have through SDC's...what position does that leave us in? We have to look at the overall big picture..." Councilor Harding pointed out the property tax limitations, which affects funding at the state level and also impacts schools. She referred to densities, lack of infrastructure in schools, and that new people are subsidizing old. She said she thought most taxpayers would be more in favor of bringing parity and fairness to the tax base than to keep adding a bunch of new little fees. It is not something that will be solved "overnight." She said she was not in agreement or a</p> | |

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| | <p>"big fan" of this process – it's not as good as it could be. She also noted that Tigard is considering a gas tax.</p> <p>Mayor Dirksen said he thought there were several views on where revenue should come from. He noted the City convened a citizen task force several years ago to look at potential revenue sources. One of the questions we asked them first was, "Are we providing the right services – are we spending money where we shouldn't or are we spending money where we should?" The answer we got back was, "Yes, you are spending the money in the right places." And, when we asked them about when we do not have enough revenue for all those services, where should we go to get more revenue. When we suggested a bond or a levy, one of the things we heard from citizens was, "Before you go to that extent, look for other sources of revenue first and utilize all those sources first."</p> <p>Councilor Harding questioned whether they meant fees. Mayor Dirksen said this ordinance would allow transfer of money from funds to where those dollars can be used for right-of-way maintenance. Water and sewer activities have impact on streets and the right-of-way, but the money is tied up in those funds and is not usable for that maintenance. By charging our own utilities the same fee that we charge other utilities, it frees up that money so that it can be used to mitigate the impacts from those utilities. Councilor Harding pointed out that a lot of that will be passed back onto taxpayers and ratepayers.</p> <p>Councilor Woodruff asked if it was possible to separate the city utilities out from the ordinance to be considered separately and discussed. Mayor Dirksen and Councilor Wilson noted this has already been discussed. Ms. Werner said the discussion occurred during the budget meetings and the proposed ordinance is the means for implementing what was decided during the budget process. Legal Counsel Firestone affirmed for Ms. Werner that the two issues could be separated. Councilor Woodruff said he was in favor of doing this as long as it does not have a rate increase. He said, "I hear you say, 'Not immediately,' but that creates a little concern about what that means. There is nothing in here at all that says anything about that." Ms. Werner said she thought that if got to a point where a rate increase would be required, part of the discussion about whether to raise rates might be, "Do we want to amend the Code again to eliminate this, or reduce this?" She said she could not say there won't be any rate increases, but if it does get to that</p> | |

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| | <p>point there certainly is the ability to look at this and "lower it or eliminate it."</p> <p>Mayor Dirksen noted that when there are rate increases for water or sewer, the fundamental reason for those increases is because we are charged more for the sewer or water and we are forced to pass that cost through to our residents. The ability to utilize that money in a way that we need to use it in the City – that's the issue here. The issue is not whether or not people are paying more or less money. Mayor Dirksen said, "Whether you pay \$5 into the water fee or you pay \$5 into the General Fund for street maintenance, it's still \$5...paying it in to one or the other, there's no net difference to our citizens..." Councilor Wilson noted, "Except in the sense that by keeping it in the water fund, you are effectively putting it in the bank in a savings account and it won't be spent this year." Councilor Harding said, "You still have to add to it. Because you cannot skim off what is already set in that water rate and what's being collected." Mayor Dirksen agreed, at present we cannot. He said what was stated during the budget process, "...at this point there would be no need to increase the rate to cover this fee."</p> <p>Ms. Werner reiterated she does not want to say, "There will be no rate increase, because when this went through in the budget process, part of it was that this will not lead to a rate increase. If that changes...then that is something we can all look at and decide, 'Do we want to approve a rate increase; is the rate increase caused by this or is it some other outside force...' This is, again, a means of implementing the decision that was made in the budget process."</p> <p>Councilor Woodruff said he thought there was going to be a budget note or something in the ordinance that would highlight the fact that before there would be a rate increase, we would consider this again to see whether or not we wanted to continue that five percent fee. If there is a different Council when this issue comes up then there should be a re-discussion triggered about whether or not the five percent fee continues to be appropriate.</p> <p>Mayor Dirksen asked if Councilor Woodruff was recommending that a statement be added to the ordinance. Councilor Woodruff said he would have no problem voting for the ordinance if a statement were added.</p> | |

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| | <p>Councilor Harding said the ordinance gives the Council the authority to change the fees and do "whatever" without a vote of the people.</p> <p>Legal Counsel Firestone said amendment language could be prepared tonight and added to the ordinance that is before the Council for consideration. Another option would be direct staff to prepare draft language and delay Council consideration.</p> <p>After additional discussion, draft language was prepared by the City Attorney and presented to the Council later in the meeting as it considered the proposed ordinance.</p> <p>Mayor Dirksen asked Mr. David Mielke, Verizon National Municipal Affairs Manager to address the Council (see Citizen Communications). Mr. Mielke said he was accompanied by Mr. Richard Stuart, Verizon Assistant General Counsel. He noted Verizon representatives have reviewed proposed changes to TMC 15.06 and have several comments. He thanked Nancy Werner, Gus Duenas and Gary Firestone for their efforts and professionalism in working with Verizon in development of the ordinance. He noted appreciation for all of the assistance staff has provided in the last two years for their project in the City of Tigard.</p> <p>Mr. Mielke said they had several concerns about the proposed ordinance. The concerns are of a legal, operational, and practical nature. He asked Council to postpone any decision on the ordinance to afford City staff, Verizon, and other utilities additional time to resolve the concerns. He said they have been working on resolution of these concerns with staff and have language to present. Mr. Mielke addressed the following specific sections of the ordinance:</p> <ol style="list-style-type: none"> 1. Requiring a right-of-way user that has an expired franchise fee engaged in renewal negotiations to be subject to the terms of the ordinance. 2. The franchise application fee. 3. Lease capacity reporting requirements. 4. Audit, notice and fees. 5. Relocation. 6. Removal of facilities due to an expired franchise. 7. Notice for appeals in the curing of ordinance violations. <p>Mr. Mielke said under Section 15.06.050 which speaks of the franchise required, Verizon requests subsection 1</p> | |

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| | <p>be clarified in the ordinance to apply to any new entrants that have not previously had a franchise with the City and to not be applicable to entities that have an expired franchise, which is actively engaged in negotiations. Verizon has an expired franchise with the City and is abiding by the terms and conditions of the franchise, including payment of fees. Also, Verizon is engaged in franchise renewal discussions with the staff.</p> <p>Mr. Mielke said with respect to Section 15.06.190, the franchise application fee, Verizon is not subject to the required application fee because Verizon pays a privilege tax to the City; such application is expressly not allowed under ORS 221.515, which provides that the telecommunications carrier shall not be required to pay fees in addition to the privilege tax. Therefore, Verizon requests an exemption from the application fee in accordance with ORS 221.518.</p> <p>Mr. Mielke referred to the proposed ordinance Section 15.06.160, leased capacity. With respect to this section, Verizon asks for this section to be deleted as Verizon cannot provide this information since it would violate the confidentiality requirements of open contracts. The requirement is unrelated to the management of the right of way and is an attempt to manage the business operations of a telecommunications provider, and the requirement may also be pre-empted by the Oregon Public Utilities Commission.</p> <p>Mr. Mielke spoke to the issue of the duty to provide information relating to audit fees. Verizon requests modification of this section to require actual receipt of notice prior to the time period beginning for provisioning of records. With respect to audit fees, under Section 15.06.170 3.: The audits should be conducted by a disinterested party, not an audit firm whose compensation is tied to the outcome of the audit. Requirement of an entity to pay audit fees due to an alleged underpayment of fees may also bias an audit, especially if the audit fees are based on a percentage of the findings. In addition, Verizon believes that any audit fees exceed the requirement of ORS 221.515 as previously discussed and, therefore, should not be applicable to telecommunication carriers. As a compromise, Verizon offered alternative language where repeat offenders will not be subject to audit fees and first-time offenders that are not negligent or fraudulent will also not be subject to the fees.</p> <p>Mr. Mielke then addressed 15.06.260, relocation or</p> | |

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| | <p>removal of facilities. The requirements of this section are the most problematic to Verizon. Verizon has provided three alternatives to change this section. One alternative was based on a recently passed ordinance in Troutdale. Verizon recognizes its responsibility to relocate facilities for road grade, paving, repairing or improving. Verizon also recognizes responsibility to relocate its facilities for City-owned water and sewer facilities. However, under state statute and Oregon Public Utility Rules, Verizon does not relocate its facilities at its cost for aesthetic purposes or relocation for non-roadway structures, for relocations that are necessitated for the benefit of a private party or other proprietary nature – whether public or private – and for relocations resulting from the vacation of a right of way. As drafted, the City could request Verizon to relocate facilities at its cost, which Verizon has not previously been required. Verizon would have no choice but to oppose any such relocations. The requirement is unfair.</p> <p>Mr. Mielke said that under section 15.06.280, removal of abandoned facilities, Verizon and other utilities as providers of last resort are mandated by the Oregon Public Utility Commission to continually provide service whether or not a franchise has expired. Only the Oregon Public Utility Commission has the authority to require Verizon to remove their facilities in instances which would result in discontinuance of service within the City of Tigard. Any requirements of this nature by the City to remove facilities and discontinue service would be pre-empted by the Public Utility Commission's mandatory service requirements.</p> <p>Mr. Mielke referred to section 15.06.300, appeals, and 15.06.330, notice and cure. Verizon requests that these sections be changed by adding "receipt of" prior to notice in order to ensure that a utility has received the notice prior to the start of any time period. Alternatively, Verizon has requested the City add a requirement that these types of notices be sent by certified mail to ensure receipt.</p> <p>Mr. Mielke requests that the City Council postpone any decision on the ordinance until City staff, Verizon, and other utilities resolve these matters.</p> <p>Councilor Woodruff asked if all the suggestions presented by Mr. Mielke been reviewed by staff? Ms. Werner advised that staff has seen these suggestions and reviewed them with Mr. Mielke and the City</p> | |

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| | <p>Attorney. Legal Counsel Firestone confirmed these same issues have been raised and reviewed. Councilor Woodruff asked if the areas where the attorney thought there was room for compromise available have already been incorporated into the proposed ordinance. Ms. Werner said, "yes."</p> <p>Councilor Harding asked if staff didn't think it was appropriate to send certified mail. Ms. Werner said that this would be a good practice to have; however, she questioned whether it would be desirable to have it mandated within the Code. Councilor Harding noted there was another project on a street near her where it was a "he said, she said" situation and she does not think it is unreasonable to include this language requiring certified mail. This way, there is proof that they have been given notice.</p> <p>Mr. Stuart, Assistant General Counsel with Verizon, addressed the City Council. He said he represents Verizon throughout the western region and has been involved in a lot of issues where notices have been sent. He advised that they are a big organization and receipt of notice is sometimes a problem in that notices have been sent to the wrong addresses. In the past ten years he said he has been involved in two significant disputes and both centered on whether or not they had received notice. He said that had not received notice in either situation. Both matters were litigated and cost the City and a PUD a lot of money; ultimately Verizon prevailed in these cases. He said they are good citizens and abide by the rules. If they receive a notice about an issue, they will correct it. If they disagree, then they will talk to "you." When something is mailed and it is not received – it is a problem. When you mail by certified mail and get a returned receipt, you know that someone has received it. If you do not get a receipt back, then you know there is a problem. For a very small amount of money, you can make sure that the notice is received and eliminate problems that will follow if the notice is not received.</p> <p>Legal Counsel Firestone said that he and City staff have been reluctant to start the time period from receipt because, "We know when we send it, we don't always know when it's received... We've built in some additional time to the period so that it goes from the date the notice is sent, taking into account that it might take up to four days for it to be received." He said in his view it is problematical to start the period from receipt. If the Council wanted to required certified</p> | |

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| | <p>mail, then that is a different issue.</p> <p>Mayor Dirksen said he agreed with Legal Counsel Firestone, since there is no way of the City knowing when the receipt took place. Councilor Harding suggested there be follow up; for example, if the City has not heard anything within ten days, then she hoped that staff would initiate a follow up. She said there are times when items are not received for some reason.</p> <p>Councilor Wilson said he thought the request for certified mail was reasonable. Mayor Dirksen asked whether certified mail should be part of the ordinance or should it be a policy. Right-of-Way Administrator Werner said this a good practice to have with regard to sending certified mail, but by putting it into the Code then if something is sent by certified mail and received, it would then not be "proper notice." Contacts about any issue might be required to be sent as certified mail. Councilor Harding said she often sends items certified mail with a return receipt requested, so she then knows the item was delivered. Right-of-Way Administrator Werner said her personal practice is to send a certified mail notice. Councilor Woodruff noted that Verizon has a number of other issues Mr. Mielke cited tonight. He noted City staff has indicted these issues have been reviewed and there is disagreement. Councilor Woodruff said he did not think each issue should be debated. In response to an inquiry from Councilor Woodruff, Mr. Stuart advised they did not travel to Tigard from out of state for this issue only; they were in the area for other business reasons. He said he appreciated the opportunity to participate in the discussion on the ordinance before it is considered for adoption. He said they wanted to make sure that the City Council knew that Verizon was not in agreement with the ordinance in its entirety.</p> <p>Councilor Woodruff said that to some degree the whole reason for the ordinance is because the City has not been able to get a franchise agreement signed with Verizon. There are many complaints about contractors who do not do adequate work, which has led the decision to codify the requirements. Mr. Stuart responded that they had been involved with the discussions on this ordinance for quite some time. He said if there are problems with a contractor, Verizon wants to know about it. One way to assure they have been contacted is to send notice in a manner such as certified mail. Mr. Stuart said they were before the City Council tonight because they want to improve and</p> | |

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| | <p data-bbox="435 243 690 275">maintain relationships.</p> <p data-bbox="435 306 1062 863">Councilor Wilson noted there are two issues. One is the fiber optics installation, which is disruptive; however he noted his appreciation to Verizon for selecting Washington County as one its first areas to serve. The other issue, and the bigger issue, is the concept of franchise fees in general and Verizon, more than any other utility has opposed franchise fees on principle. He said he is trying to determine whether the objections that were listed tonight – are they fine-tuning requirements or are they attempts to be obstructionist? This is a case where the City is looking at this ordinance because franchise fees are, next to property taxes, our largest source of general fund revenue. There are efforts underway, even at the national level, to preempt cities' rights to collect franchise fees thereby necessitating changes such as this to the municipal code.</p> <p data-bbox="435 894 1062 1157">Mr. Stuart said they if their presence tonight is being perceived as being obstructionist, then he apologized. The purpose for being before the Council is to make a better, workable franchise. He advised there were no issues about Verizon paying the fees. He noted similar concerns expressed about city taxpayers paying for the fees if water and sewer utilities are charged a fee insofar as they would pass along these costs to the customer.</p> <p data-bbox="435 1188 1062 1514">Legal Counsel Firestone advised one of the main purposes of the ordinance was to clearly provide that the ordinance would apply to an expired franchise because the status is unclear once a franchise has expired. Application of the ordinance can be avoided by an extension of the old franchise agreement. Right-of-Way Administrator Werner noted that Verizon has "come to the table" to negotiate its franchise agreement; however, another telecom company has not responded to calls or letters.</p> <p data-bbox="435 1545 1062 1713">Legal Counsel Firestone said he disagreed with Verizon's interpretation that an application fee places a limit on the percentage of tax on certain types of income. He said that Verizon has a lot of sources of income.</p> <p data-bbox="435 1776 1062 1904">Legal Counsel Firestone commented on abandoned facilities. He said he did not think there was any intent to require an actively operating franchisee to remove facilities that are in use or likely to be use in the future.</p> | |

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| | <p>The removal of abandoned facilities provision was intended to apply when facilities are actually abandoned and will no longer be used. It might make a difference as to the specific location whether or not the City will require removal and there will be process in place for application of this section. Right-of-Way Administrator Werner advised an amendment had been made to this section in response to comments. Councilor Wilson asked for clarification in that he said it would probably be difficult to have a utility remove abandoned facilities since it is likely that the utility has gone out of business. He also asked why we would want to dig up roads to remove the facilities. Legal Counsel Firestone said it was understanding the City would have a different attitude – depending on whether the facilities were above ground or below ground. Right-of-Way Administrator Werner said there is a potential circumstance where there is “so much stuff” in the right of way and there is a need to remove what is not being used.</p> <p>Councilor Wilson asked about the requirement to relocate facilities. He noted there is a process where developers are charged a fee to underground utilities. Would this new language give the City the authority to require existing utilities to be placed underground? Right-of-Way Administrator Werner advised the proposed language is the language being used in the telecom ordinance. She advised that “relocation” is slightly different than “undergrounding.” Relocation is taking an aerial facility and moving it to another location where it still is an aerial facility or an underground facility is moved to a different underground location. There was discussion on relocation for aesthetic purposes. Right-of-Way Administrator Werner said the Code says the utility must relocate at their expense when it is necessary for public improvements or when it is otherwise in the public interest. She said that aesthetics might not be construed to be in the “public interest.” Mr. Firestone said, “Although that is usually the justification for undergrounding...aesthetics. But my understanding of Verizon’s concerns... ‘public interest’ is not sufficiently narrow. I think the main concern has to do with when relocations are required associated with development and when it is simply a City project. If it is a City project, my understanding is that Verizon has absolutely no concerns with the fact that they will have to relocate facilities. Their concern, as I recall, was when a development comes in and there’s also a City project and the two kind of happen together – question</p> | |

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| | <p>whether that's at the request of the developer, in which case the developer is responsible, or whether it's a City project, in which case Verizon and other utilities would be responsible for the cost of relocation. And, the City's position has traditionally been, if it's a development project, development pays. But, there is a certain amount of gray area that the City and Verizon has not been able to come to full agreement as to how to express it."</p> <p>Right-of-Way Administrator Werner said that the Code does say that if it is a private development, private development pays and the utility does not have move anything until a deposit is received for those expenses. Right-of-Way Administrator Werner reminded the Council that if a franchise agreement is reached, the terms can vary from the Code. Therefore, a utility has the ability to come and negotiate for a different provision. Ms. Werner confirmed Councilor Wilson's observation that if the ordinance is adopted, then "they can still then negotiate different terms." The most onerous, therefore, would be the Code language.</p> <p>Legal Counsel Firestone said that any major decision can be appealed. Mayor Dirksen said it appears from the way the Code language is written, the City would have to have a demonstrable need to compel a utility to move their facilities or it would be subject to challenge.</p> <p>Mr. Mielke said it would be tough to negotiate "downward" from the "most onerous" – the Code provisions.</p> <p>Councilor Woodruff asked if comments were received from other utilities and did others have similar concerns as Verizon. Right-of-Way Administrator Werner said MCI sent comments that were very similar to Verizon's comments. Comments were also received from NW Natural and some of those comments were incorporated in the language proposed in the ordinance. Ms. Werner said that she sent revisions of the language to all utilities that provided comments to give them a second opportunity to comment. Verizon was the only utility that "took advantage of that," which is why their comments were included in the City Council's packet information.</p> <p>Councilor Harding asked how much time the utilities had to respond. Right-of-Way Administrator Werner said she didn't remember the exact time. She asked Verizon if they had enough time to respond.</p> | |

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| | <p>Representatives indicated yes. Legal Counsel Firestone added that the process has been going on for a long time.</p> <p>Councilor Wilson agreed that this has been discussed for a long time, which is why he feels a little impatient. He said it might not be a bad thing to "try it out." Modifications can be made if something is not working.</p> <p>Councilor Woodruff urged the Verizon representatives to begin dialogue immediately to develop a mutually acceptable franchise agreement if the proposed ordinance is adopted.</p> <p>Mr. Mielke noted discussions have been started and then put on hold until after the modifications to be proposed to the right-of-way ordinance were made by the City.</p> <p>Mayor Dirksen advised this matter was now open for Council consideration. Legal Counsel Firestone suggested the following wording be inserted at the end of 15.06.100 2.:</p> <p>"The right-of-way usage fee percentage for water and sanitary sewer shall be reconsidered by City Council prior to any increase in City water or sanitary sewer rates."</p> <p>Councilor Wilson said that he would not vote "no" if the above language was added, but said these rates are reviewed each year during the budget process. Mayor Dirksen said he likes the idea of adding this language as said it would be a similar situation where a fee or tax is discontinued (sunset clause) or reviewed if it is to be retained.</p> <p>Councilor Harding observed fees rarely go away unless it is something like a bond measure that has been paid off.</p> <p>Mayor Dirksen noted his appreciation to the Verizon representatives for coming in to comment. If the comments were new and had not been considered previously and considered by staff and the City Attorney, then that would be worthy of further consideration. But, because this is not the case, the Mayor said he did not see any reason for the process to be delayed. Councilor Wilson said, It is immensely valuable to put a face behind the company...thanks for coming." Councilor Harding thanked Verizon for</p> | |

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| | <p>continuing paying the fee after the expiration of the franchise fee.</p> <p>ORDINANCE NO. 06-11 – AN ORDINANCE AMENDING AND RENUMBERING TIGARD MUNICIPAL CODE CHAPTER 5.14 AND TITLE 15 TO INCORPORATE A RIGHT-OF-WAY USAGE FEE AND CLARIFY FRANCHISE AND RIGHT-OF-WAY USE REQUIREMENTS FOR ALL UTILITIES.</p> | | | | | | | | | |
| 6.Consider Revisions to the Tigard Municipal Code Incorporating a Right-of-Way Preservation and Restoration Policy | <p>Right-of-Way Administrator Werner presented the staff report.</p> <p>The proposed ordinance would incorporate a new policy to limit street cuts on streets that have been newly constructed, reconstructed, or improved within the last four years. Some exceptions would apply including emergency circumstances, when there is no other way to provide service to a customer, or when cuts are necessary to locate existing utilities when boring under the street. The ordinance could allow street cuts to be made in a protected street under compelling circumstances with conditions imposed by the City Engineer. Another amendment to this section of the Code would improve coordination of construction and prevent multiple large projects on a street within a 12-month period by limiting street cuts on any street, regardless of age, within 400 feet of a major utility installation or upgrade.</p> <p>The City Engineer would be required to set up some guidelines for creating standards for restoring the street if a cut has to be made if an exception is granted. The City Engineer would also be responsible for setting up a list of all streets that are subject to the restoration policy.</p> <p>Staff met with utilities (including Verizon, MCI, NW Natural, Comcast and PGE) on this proposal and sent them a draft ordinance. Some of the utility companies' comments were incorporated into an amended draft. No comments were received on the amended draft.</p> <p>Councilor Woodruff noted he appreciated the work done by staff in response to community concerns. He said he would support its adoption.</p> <p>Mayor Dirksen said the proposed ordinance addresses an issue that has been a “thorn” for some time. He would support even stronger language, but this is a good place to start. Once it has been in place for awhile the City Council might want to revisit to determine if the</p> | <p>Motion by Councilor Harding, seconded by Councilor Wilson, to adopt Ordinance No. 06-12.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table> | Mayor Dirksen | Yes | Councilor Harding | Yes | Councilor Wilson | Yes | Councilor Woodruff | Yes |
| Mayor Dirksen | Yes | | | | | | | | | |
| Councilor Harding | Yes | | | | | | | | | |
| Councilor Wilson | Yes | | | | | | | | | |
| Councilor Woodruff | Yes | | | | | | | | | |

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| | <p>ordinance be strengthened without being overly restrictive.</p> <p>Councilor Wilson recalled the discussions about hiring a right-of-way manager. He told Right-of-Way Administrator Werner that he thought she has done a good job and noted his appreciation.</p> <p>Right-of-Way Administrator Werner advised the ordinance has a provision for a three-year review; therefore, after three years, the City Engineer will report on the implementation experience and whether it has been effective. Councilor Woodruff asked that this be monitored closely to determine if stronger wording is needed.</p> <p>ORDINANCE NO. 06-12 – AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE CHAPTER 15.04 TO INCORPORATE A RIGHT-OF-WAY PRESERVATION AND RESTORATION POLICY</p> | | | | | | | | | |
| 7. Continuation of Public Hearing (Legislative) from July 11, 2006 – Incidental Uses in Cultural Institutions Code Amendment (DCA 2006-00002) | <p>Community Development Director Coffee presented the staff report. He advised that the hearing was continued from the July 11, 2006 meeting, so staff could visit with potential vendors who might provide this service at the Library. This amendment will also apply to other uses within the community. Community Development Director Coffee said that they found out that the Finance staff had negotiated a lease with a vendor in late June. The vendor was aware of this proposed amendment and had no reservations about the sign limitations. The only question by the vendor was whether a temporary sign would be allowed during the opening days of the operation. Temporary signs are allowed for 30 days.</p> <p>Community Development Director Coffee said staff and the Planning Commission recommend City Council adopt the proposed ordinance.</p> <p>In response to a question from Councilor Woodruff, Community Development Director Coffee advised the vendor was not concerned about a sign.</p> <p>Mayor Dirksen noted he needed to officially open the public hearing (continued from June 11, 2006).</p> <p>Community Development Director Coffee reported the coffee vendor is interested in having signage within the Library lobby, which will be visible from the street</p> | <p>Motion by Councilor Wilson, seconded by Councilor Woodruff, to adopt Ordinance No. 06-13.</p> <p>The ordinance was adopted by a majority vote of City Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>No</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table> | Mayor Dirksen | Yes | Councilor Harding | No | Councilor Wilson | Yes | Councilor Woodruff | Yes |
| Mayor Dirksen | Yes | | | | | | | | | |
| Councilor Harding | No | | | | | | | | | |
| Councilor Wilson | Yes | | | | | | | | | |
| Councilor Woodruff | Yes | | | | | | | | | |

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| | <p>through the window. The vendor did not indicate any concern about signage near the road; although this would now be an option.</p> <p>Mayor Dirksen asked Legal Counsel Firestone a public hearing process question about declarations or challenges. Legal Counsel Firestone asked if there have been any changes since in conflicts or ex parte contacts since the previous hearing date. No conflicts or ex parte contacts were reported.</p> <p>Mayor Dirksen said that when he learned that the new vendor has no issue with the proposed ordinance he questioned whether there was a need to do the ordinance. The Mayor advised, however, there is another issue and noted that the Senior Center has a gift shop sign and this would now be in compliance if the ordinance is adopted.</p> <p>Community Development Director Coffee said the perception of the staff for Library and Finance is that this type of ordinance might be necessary to attract a vendor for this space. Legal Counsel Firestone said the provision is not specific as to what the sign says; it allows an additional sign on behalf of the lessee.</p> <p>There was no public testimony.</p> <p>Staff recommended that the City Council adopt the proposed ordinance.</p> <p>Mayor Dirksen closed the public hearing.</p> <p>ORDINANCE NO. 06-13 – AN ORDINANCE AMENDING THE LANGUAGE OF THE TIGARD COMMUNITY DEVELOPMENT CODE, CHAPTERS 18.130 AND 18.780, TO ALLOW INCIDENTAL AND SUBORDINATE CULTURAL USES IN CULTURAL INSTITUTIONS AND TO CREATE A “CULTURAL INSTITUTION AUXILIARY SIGN” CATEGORY (DCA 2006-00002)</p> | |
| <p>8. Consider an Amendment to the Tigard Municipal Code to Add a New Chapter 7.38 – Truancy</p> | <p>Police Chief Dickinson presented the staff report.</p> <p>This originally came about because a Tigard police officer encountered young people who were not in school who were supposed to be in school. Most of the time, the young people willingly returned to school. However, increasingly students are choosing not to return to school. Under state law, there is no fine or</p> | <p>Motion by Mayor Dirksen, seconded by Councilor Wilson, to adopt Ordinance No. 06-14.</p> <p>The motion was approved by a unanimous vote of Council</p> |

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| | <p>penalty attached to a child failing to regularly attend school; the proposed ordinance would remedy this for the City of Tigard. The King City City Council passed this ordinance recently and the Tigard-Tualatin School District has adopted the language in the proposed ordinance as district-wide policy. The City of Tualatin will also be considering this ordinance.</p> <p>The ordinance would allow police officers to take youth back to school or, if not back to school, the child would be returned to his/her parents or legal guardians. Police Chief Dickinson advised staff reviewed what other communities are doing to deal with this issue. Some communities have gone so far as to make an this an "offense"; however, in the City of Tigard the goal is to get children back into school or make sure their parents or guardians were aware of the situation.</p> <p>Councilor Woodruff said it seems reasonable to provide a tool to the police officers to help with truancy. He also noted that this is being responsive to the District who is partners with the City of Tigard. He noted his only concern was whether this would become a large part of the job that officers are doing and interfering with their ability to perform other law enforcement work. He suggested that the City Council receive a report on how this is working in the next several months regarding how much time is going into enforcing this ordinance. Police Chief Dickinson said it would be no problem to report this information to the City Council and added that the Police Department currently receives complaints from the neighborhoods if there are problems. He said enforcing the truancy ordinance would not be their first priority. This would be a tool used primarily by School Resource Officers.</p> <p>Assistant City Manager Newton said it may be that once it's a policy of the District and the parents and students understand that this will be enforced, voluntary compliance may come about.</p> <p>Councilor Harding inquired about additional staffing for School Resource Officers. Police Chief Dickinson confirmed that one School Resource Officer was added, which was primarily driven by the increase of referrals received from the state DHS; this is one of the highest priorities for the School Resource Officers. Councilor Harding suggested this also be monitored as to cost and impacts on staff.</p> <p>Police Chief Dickinson described what is meant by the</p> | <p>present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Wilson Yes Councilor Woodruff Yes</p> |

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| | <p>term “protective custody” in response to a question from Councilor Wilson. Some cities would make violation of the truancy ordinance an offense, which would technically give a child a criminal history. Protective custody is a non criminal holding that allows police officers to take custody of a youth, but not place them under arrest. This is used in circumstances including run-aways or if a child is found in a dangerous situation. If the child is not with a parent in a dangerous situation, then the child can be placed with the parent or guardian. In some cases, the child is in a dangerous situation with the parents and in that case the child is placed in a children’s facility – not jail. Typically, protective custody is for a very brief time to place them in a facility where the child can be reconnected with their parents or to take the child to the parents. If it is a medical situation, a child could be taken to a medical facility. Protective custody is a “safekeeping” arrangement.</p> <p>Mayor Dirksen advised he was surprised to learn that a law such as this was not already in place and indicated he supported the proposed ordinance.</p> <p>ORDINANCE NO. 06-14 – AN ORDINANCE AMENDING THE TIGARD MUNICIPAL CODE TO ADD A NEW CHAPTER – 7.38 – TRUANCY</p> | |
| <p>9. New Funding Source Recommendations from the Transportation Financing Strategies Task Force</p> | <p>Transportation Financing Strategies Task Force Members Present: Gretchen Buehner, Chair; and Joe Schweitz Task Force Member</p> <p>City Engineer Duenas gave a brief staff report on this agenda item. About a year ago, the Transportation Financing Strategies Task Force recommended a local gas tax be implemented to finance projects. The City Council asked for a project to be identified that would likely be supported by the community. Since then, the Hall Boulevard/Highway 99W Project was started by the County. There is an opportunity at this time to do the Greenburg Road/Highway 99W/Main Street intersection, which has been discussed with City Council. Costs for this project were estimated and presented to the Transportation Financing Strategies Task Force. Members of the Task Force were introduced. A PowerPoint presentation on a proposed 3 cent gas tax was reviewed with the City Council and a copy is on file in the City Recorder’s office.</p> <p>Transportation Financing Strategies Task Force Chair Buehner advised that the Task Force has been meeting</p> | |

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| | <p>for approximately two years to look at financing possibilities for transportation projects given the fact that gas tax revenues have been relatively flat. The cost of construction continues to go up. The Transportation Financing Strategies Task Force made a presentation to the City Council about a year ago recommending a local gas tax as probably the most fiscally prudent and logical method of raising a relatively small amount of money that could be used for a specific project. Ms. Buehner noted the City Council asked the Task Force to come up with a project.</p> <p>Ms. Buehner said the MSTIP project for Hall Boulevard is being engineered. The Task Force put together a proposal to add an additional turn lane coming from Greenburg Road to 99W that would separate the through and left-turn traffic. In addition the eastern-bound lane on 99W would be extended back beyond Main Street to allow easier right turns off of 99W onto Main Street. A separate left turn and through lane would be added for traffic coming from Main Street, turning onto 99W. It looks as if this project would be relatively cost effective and within the amount of money that could be raised with a local gas tax. This is also the project reviewed by DKS and OTAK and presented to the City Council.</p> <p>Ms. Buehner said that, as the Task Force had previously recommended, they were looking at the gas tax being modeled after the MSTIP process that has been so successful in the County. The funds from the gas tax would be used for a specific project. The tax would sunset in five years unless the City Council decided to extend it based on another project or series of projects. The gas tax would not raise sufficient funds to do a lot of projects. It will be an additional resource to do one or two very specific projects within a given time. Ms. Buehner said it would be clear as to the timing, the project and the amount of money for the project. In looking at nearby jurisdictions, Multnomah County has a much higher gas tax; therefore, the gas in Tigard is generally less expensive. Ms. Buehner said she did another survey around our area. A year ago, the variation between the 14 gas stations in Tigard was approximately 23 cents; it is now about 32 cents. The amount of the gas tax will not be that visible. Task Force Member Schweitz noted his support to go forward.</p> <p>Councilor Woodruff noted he appreciated the work the Transportation Financing Strategies Task Force has</p> | |

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| | <p>done. From a recent citywide survey, it is very clear that traffic is the No. 1 concern that people have – and 99W is the No. 1 problem with traffic. The proposed projects would have some effect on the concern and problem identified. Councilor Woodruff said the only question he had was what have the service station owners said about this prospect? Ms. Buehner responded that the Task Force will need to survey the service station owners. She said she contacted the state organization for service station owners and they would prefer that there be no tax. City Engineer Duenas noted it is difficult to find people who are “accountable” working at the gas stations; “these are absentee owners.” City Engineer Duenas said efforts would be made to contact the service station owners. Mayor Dirksen said that perhaps by bringing the issue forward, service station owners will come forward.</p> <p>Ms. Buehner pointed out that gas station owners need to get their customers into their stations. The more congestion that there is along 99W, Greenburg, etc., the less people there are likely to be to drive down the streets – they will look for other ways to travel. If the street is made better, she thought it would be “win-win” situation both for the driver and the businesses. She noted the timing issue with the Hall project going forward and it is possible that costs for the gas tax project could be reduced if it is done at the same time.</p> <p>Mr. Schweitz commented that the projects identified will improve the traffic situation and anticipates that we will gain citizens’ respect as the City works towards resolving the traffic issues. The Task Force supports going forward to “get something going.”</p> <p>In response to a question from Councilor Woodruff about process, Assistant City Manager Newton advised the next step will be for the Task Force to contact gas stations and discuss the proposed tax. City Engineer Duenas said a proposed ordinance will be brought back to the City Council for a Workshop discussion. He advised they will likely recommend an aggressive timeframe and targeting early October for City Council consideration. Councilor Wilson, who will be leaving office the end of this year, said that as a member of the Transportation Financing Strategies Task Force, he would like to be able to vote on this ordinance.</p> <p>Ms. Buehner also noted we did not want to miss the opportunity of coordinating the gas tax project with the County project at Hall/99W.</p> | |

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| | <p>Councilor Wilson said he enthusiastically supports the gas tax. He said his only concern is whether three cents is enough. At one time, it was calculated that 30 million gallons of gasoline are sold within the City annually. City Engineer Duenas noted the estimate was derived by reviewing what other cities have experienced and then going mid-range for anticipated revenue.</p> <p>Mr. Schweitz noted the station owners don't collect the tax at the station. The tax is collected by the wholesaler. Everyone using the roads will be helping to pay for the projects. While he would rather not have another tax, he thinks people will stand behind it because everyone has been talking about the traffic problems for years.</p> <p>Ms. Buehner reiterated funds would be dedicated to a particular project. This addresses a City Council goal.</p> <p>City Engineer Duenas said that rather than wait for the Highway 99 study to be completed, this obvious project would complement the whole 99W project and provide better traffic circulation.</p> <p>Mayor Dirksen said there is a case where we have Task Force members who have become educated into the process, it almost turns into a situation where you have the "choir preaching to us." This does not necessarily mean that the "man on the street" will agree with this but instead will say that it's another opportunity for the government to put its "hand in my pocket." Mayor Dirksen said he thought there were many good arguments that make sense for a gas tax. This type of tax would spread the burden not just to City of Tigard residents but also to those who use our streets. If this were just coming to the City Council as an ordinance now without any public input, there would be no way he could support it. But, he was in favor to take it from this point, gather more information, and go through a public process. In the end, it might be that he is not in favor of the ordinance. Mayor Dirksen said that we need to move forward from this point through the process to determine if there is support for it. He recommended as part of the public process to have at least two public hearings.</p> <p>Councilor Wilson agreed with Mayor Dirksen and further suggested that the gas tax proposal and the project be viewed as one thing: "This is the project and this is how we are going to pay for it."</p> | |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
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| | <p>Councilor Harding said there is a need to have all of the electorate looking at one project. She said we still need to try to think of what direction Washington County might be taking as far as a gas tax. It is still on the table for the County. Councilor Harding gave some information, based on a scientific survey of County residents. Most believe that funding should be sought to cover the anticipated debt between system use and available funding. She said 46 percent of the respondents recommended making up some of the shortfall and 35 percent recommended making up all of the shortfall. Ten percent of the respondents were opposed to seeking additional funding for transportation, but 60 percent believe there is already too much funding and 40 percent believe allocation of current funds should be shifted generally transit to roads or vice versa. Councilor Harding confirmed for Mayor Dirksen that the "40 and 60 percent" was of the 10 percent referred to above. Several people identified fees relating to new development as most attractive; however, she said this isn't likely to happen and added that new people are paying the "lion's share." People would consider benefits of a proposed funding package along with a proposed funding source to determine whether or not it is attractive. Councilor Harding said this is exactly what we are talking about. County and City governments need to coordinate on any efforts on any funding initiatives, which is important because you do not want to have two gas tax votes on the ballot. However, Councilor Harding noted there has been a generalized consensus among other cities in Washington County that they would prefer it if Washington County does not do a gas tax because local revenues generated would serve cities better than if it was applied throughout the County. The County is still working on a formula for distribution among cities. Councilor Harding said, "...that we need to keep in mind as we...go forward with anything like this...we need to make sure we are coordinating and not...doing the same thing twice." She again noted the importance of sending representatives to Washington D.C. to lobby for transportation needs in this area as well as continuing to speak up for "our corner of the County." Mayor Dirksen noted his appreciation for Councilor Harding's work on the WCCC. He noted Councilor Harding made a good point about the need, through this process, to continue to coordinate with the County. The County has asked us the question, "Are people more interested in a local tax, or a County tax...we need to make sure we keep them apprised of what we</p> | |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
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| | <p>are doing here as well.” Councilor Harding noted the need to keep track of the history of that Committee to maintain good representation of this area of the County.</p> <p>Councilor Wilson said another thing to consider is that Tigard has the burden of a major state highway running through our community – the Highway 99 strip – and its legacy, which is the downside. The good side is we have more gas stations and the most people. It is not fair for us to bear this burden without also benefiting from the fact that we have these gas stations. Insulated communities off of these strips don’t have gas stations. In some ways, it is really only fair for us to go our own way on this issue.</p> <p>Councilor Harding said that Mayor Drake wasn’t excited about another MTIP because he felt that Beaverton was contributing more than they were getting back.</p> <p>City Engineer Duenas said that studies have shown that about 50 percent of the traffic is regional traffic. It will not be just Tigard residents who will be asked to pay for the proposed intersection improvements.</p> <p>Councilor Harding noted that people do not realize they can take I-5 to the Salem Parkway to the coast.</p> <p>Ms. Buehner said there is also a need to make sure the citizens understand this is a project where the City can coordinate with the County and ODOT and also save some money by combining efforts on the two projects. Ms. Buehner advised that the Transportation Financing Strategies Task Force requests that they go forward with its plan and recommendations and come back to the City Council with a draft ordinance in late October. Mayor Dirksen said he heard general support for the process in moving forward to see where this leads us. He said he thought we would be remiss to stop it at this point and not follow through to see what we will find at the other end. Mayor Dirksen noted this would take selling to the public as well as the gas station owners and the Council will be looking to the citizen Transportation Financing Strategies Task Force members to be the “front-line soldiers” to get the word out.</p> <p>Councilor Woodruff noted the past recommendation to identify the problem, identify solutions – paying for it with the users who are “creating the problem.” This</p> | |

| Agenda Item | Discussion & Comments | Action Items (follow up) | | | | | | | | |
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| | <p>is all a package with a sunset provision.</p> <p>Mayor Dirksen asked City Council if there was general support to move forward with the process. No objections were raised.</p> <p>Assistant City Manager Newton said a <i>Cityscape</i> page could be devoted to this matter.</p> | | | | | | | | | |
| 10. Code Amendments to the Intergovernmental Agreements with Washington County (Urban Planning Area Agreement and Tigard Urban Services Agreement) | <p>Community Development Director Coffee presented the staff report on this item. This is a request by Washington County as they have proceeded with the petition to incorporate a city on Bull Mountain. The County staff has identified potential legal barriers with the Tigard Urban Service Agreement, which identifies Tigard as the ultimate provider of urban services in the urban services boundary in the unincorporated area, and the Urban Planning Area Agreement, which spells out how the area will be planned for the eventual urbanization with Tigard. As the agreements now read, there is a potential legal challenge to the incorporation of Bull Mountain because of inconsistencies. The County has asked the City if it would amend the agreements to indicate that should a city be incorporated within the urban services area, the City would be agree to amend the document to reflect that reality.</p> <p>Community Development Director Coffee advised that in previous communication with the County, we indicated we would be willing to do that. He referred to a letter from Mayor Dirksen, which was transmitted to the County on July 25, 2006.</p> <p>Councilor Wilson said it appears that the amendments have been written so that if Bull Mountain were to incorporate, this territory would be withdrawn from the existing agreements; however it doesn't terminate the agreements. Community Development Director Coffee affirmed the agreements would not be terminated. Councilor Wilson said it seems that there has been a "sea change" in the last six months in the thinking about the unincorporated areas of the County in general, which is independent somewhat from a Bull Mountain incorporation proposal. He said he wondered if it would make sense sometime near this juncture to reevaluate the entire agreements. Councilor Wilson noted the agreements are required, to some degree, by state law. This seems to be a worthy endeavor regardless of the outcome of the election to take up this issue with the County.</p> | <p>Motion by Mayor Dirksen, seconded by Councilor Harding, to approve the proposed amendments and authorize the Mayor to sign the amended agreements.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table> | Mayor Dirksen | Yes | Councilor Harding | Yes | Councilor Wilson | Yes | Councilor Woodruff | Yes |
| Mayor Dirksen | Yes | | | | | | | | | |
| Councilor Harding | Yes | | | | | | | | | |
| Councilor Wilson | Yes | | | | | | | | | |
| Councilor Woodruff | Yes | | | | | | | | | |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
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| | <p>Community Development Director Coffee responded to Councilor Wilson that this could be done. Mr. Coffee said this could be brought back before the City Council in the future with an overall assessment of the agreements. Community Development Director Coffee said he is not sure whether these agreements apply to Metzger and an area near King City; Assistant City Manager Newton said staff will need to review these agreements.</p> <p>Community Development Director Coffee clarified that the proposed amendments before the City Council tonight were drafted by the County. Mayor Dirksen noted the amendments address Bull Mountain specifically.</p> <p>Mayor Dirksen said he assumes that if the incorporation measure were to fail, then these amendments would "disappear." Community Development Director Coffee said the amendments would remain; however, they would not be relevant because they are applicable only if a new city is established. The City Council would not have to revisit the amendments for another decision.</p> <p>Mayor Dirksen said that, "It is perhaps beyond ironic that we be considering this tonight, when today was the day that the County made its final decision to place the incorporation on the ballot in November. And, in doing so, ignored the City of Tigard's request that city-owned and controlled property be removed from that boundary. As was noted earlier, the City's refusal to address these agreements could, in effect, legally stop the incorporation effort. The City would also be able to do so by claiming that the incorporation of the new City would place a burden upon the City of Tigard. We could also do so by appealing the boundary decision to Metro, which would stop the process at the present point, which would cause the deadline to be missed and it would not be able to be on the ballot in November. The City has that power at this point and has had it throughout the process. On the other hand the... Council has commented that in general we are in favor of the incorporation. In the face of this decision with regard to the boundary, it makes our cooperation more difficult. But, I think it is in our long-term best interests, and the best interests of all of the people involved, that we do not react in that way to cause that failure and that we move forward on the course that we previously told the County that we would take and that</p> | |

| Agenda Item | Discussion & Comments | Action Items (follow up) | | | | | | | | |
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| | <p>we would agree to the changes in the agreements. It can sometimes be difficult to stay on the high road, when you feel like you may be the only one that's there. But, I think that we need to retain that position regardless.”</p> <p>Councilor Wilson thanked the Mayor for his statement. He said that one of his main concerns is the ability to provide park land in his neighborhood. The County’s decision makes it more difficult for the City of Tigard; however, he agreed that the City Council should not stop the process.</p> <p>Councilor Woodruff said the amendments appear to be technical, but it is another indication of the City’s efforts to continue to be a good partner with the County. He added that he was disappointed with the decision that the County made about the boundary.</p> | | | | | | | | | |
| Adjournment | The meeting adjourned at 10:07 p.m. | <p>Motion by Councilor Woodruff, seconded by Councilor Harding, to adjourn the meeting.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table> | Mayor Dirksen | Yes | Councilor Harding | Yes | Councilor Wilson | Yes | Councilor Woodruff | Yes |
| Mayor Dirksen | Yes | | | | | | | | | |
| Councilor Harding | Yes | | | | | | | | | |
| Councilor Wilson | Yes | | | | | | | | | |
| Councilor Woodruff | Yes | | | | | | | | | |

Catherine Wheatley, City Recorder

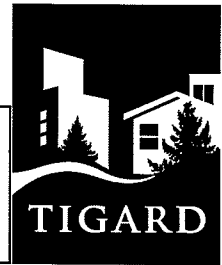
Attest:

Mayor, City of Tigard

Date: _____

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Agenda Item No. 6.1
For Agenda of 9.12.06



Tigard City Council Workshop and Business Meeting Minutes

Date: August 15, 2006
Time: 6:30 p.m.
Place: Tigard City Hall, 13125 SW Hall Boulevard
Tigard, Oregon
Attending: Mayor Craig Dirksen Presiding
Councilor Sally Harding
Councilor Sydney Sherwood
Councilor Nick Wilson
Councilor Tom Woodruff

| Agenda Item | Discussion & Comments | Action Items (follow up) |
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| Workshop Meeting | Mayor Dirksen called the City Council and the Local Contract Review Board to Order at 6:30 p.m. | |
| 2. Receive Site Committee Update – Senior Center Remodel | <p>Risk Manager Mills summarized the Staff Report.</p> <p>Below is a summary of the discussion:</p> <ul style="list-style-type: none">➤ Risk Manager Mills introduced Senior Center Executive Director Joan Smith and a representative of the Loaves and Fishes and City of Tigard Site Committees Bill Gerkin.➤ Councilor Sherwood advised she needed clarification on the remodel. She said that since more than \$1 million will be spent on the project, she wanted to make sure a full commercial kitchen is planned. She noted the need for a facility available for groups to access a commercial kitchen for community events, fundraisers, etc.➤ Mr. Gerkin reviewed activity experienced with other senior centers in the region and the populations served.➤ The Tigard Senior Center needs to be updated, which would benefit Meals on Wheels and provide opportunities for more activities and to expand activities already taking place.➤ Councilor Woodruff advised that the City Council is supportive of the remodel, but wants to provide for growth in the Center's use.➤ Ms. Smith said some scratch cooking is now | <p>Council consensus was to proceed with the Senior Center Remodel process. City Manager Prosser advised that with Council direction to proceed, funds have already been appropriated for this project. Staff will proceed to spend up to \$100,000 of this year's Community Investment Program funds for architectural work to get a conditional use application started for the remodel.</p> <p>Risk Manager Mills advised that before proceeding with architectural and engineering design bids to be funded with the second half of the funds allocated for this fiscal year (an additional \$100,000), staff will return to the City Council.</p> |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
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| | <p>done at the Senior Center.</p> <ul style="list-style-type: none"> ➤ Loaves and Fishes will pay for part of the remodel. ➤ Ms. Smith said, depending on the amount that might be awarded by the CDBG, the Tigard Senior Center remodel plans might need to be pared down or they will need to do additional fund raising. ➤ Ms. Smith said they have worked with a kitchen architect to design a kitchen that meets commercial standards. ➤ Risk Manager Mills noted that the remodel could occur in phases as funding is identified. ➤ Risk Manager Mills advised the goal is to have this project finished by June 2008. | |
| <p>2. Discuss Roles and Responsibilities of the City Center Advisory Commission</p> | <p>City Center Advisory Commission members present: Chair Carl Switzer; Commissioners Carolyn Barkley, Gretchen Buehner, and Alice Ellis Gaut</p> <p>Community Development Director Coffee introduced this agenda item.</p> <p>Senior Planner Nachbar distributed a marked-up draft of the Bylaws noting this document reflected changes suggested by the CCAC.</p> <p>Key points of the discussion follow:</p> <ul style="list-style-type: none"> ➤ Section 1 outlines “charge and duties”: <ul style="list-style-type: none"> ○ Bylaws should be reviewed to assure compatibility with the Urban Renewal Plan. ○ Discussed the situation where another urban renewal district might be formed in Tigard. Speculation on whether another CCAC might be needed or adjustments to the existing CCAC. ➤ Chair Switzer advised of the detailed review by CCAC members. The CCAC members wanted to create a document to provide guidance if there should be a leadership change, provide for a minority report, and clarify the purpose and procedures of the CCAC. ➤ Discussed representation of community interests from the membership of the CCAC. ➤ A representative from each interest group is not | <p>Council members agreed they would like more time to review the draft Bylaws and scheduled another discussion on September 19, 2006.</p> |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
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| | <p>necessary; however, interest groups should be invited to the table so the CCAC can receive their input.</p> <ul style="list-style-type: none"> ➤ If care is taken to select a broad cross-section of the community, then there will likely be a good representation of interests. ➤ Chair Switzer said CCAC members felt they should have input on selection of members to the CCAC. Mayor Dirksen commented that this would be unusual as this is not how appointments are made for other boards and committees. Assistant City Manager Newton added that this would require an amendment to the resolution regarding how appointments to boards and committees are done. After brief discussion, Councilor Wilson suggested it was good to have open lines of communication to receive input from the CCAC, but questioned whether it was necessary to codify this as a requirement in the Bylaws. ➤ Community Development Director Coffee advised that if the Bylaws require that the membership reflects representation of certain interest groups within the community, how members are removed should be outlined. Chair Switzer directed attention to Section 4, "Term of Office." ➤ Councilor Harding noted the need for better recruiting efforts for members and supported having Committee members assist with this process. ➤ Councilor Wilson suggested that the representation of a broad spectrum of community members within the membership of the CCAC be a goal and not a "hard and fast rule." ➤ Councilor Woodruff said Section 3(a)(2) regarding the composition of the CCAC is not needed. There was general agreement to delete this wording. ➤ Commissioner Ellis Gaut noted there is a section in the draft Bylaws allowing a vote by proxy. ➤ Section 7 outlines the Commission members' responsibilities, including wording on acting with respect and consideration for the viewpoint | |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
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| | <p>of others.</p> <ul style="list-style-type: none"> ➤ Removal of members is outlined in Section 10. ➤ Mayor Dirksen confirmed, in response to a question from Commissioner Barkley, that the CCAC is a "Commission" not a "Committee." These two terms have been used interchangeably – use "Commission." | |
| <p>4. Discuss Town Hall Audio Visual Upgrade</p> | <p>Information Technology Director Ehrenfeld introduced Mr. Lon Cudy of New World Audio Video. Mr. Cudy was awarded the contract to analyze the current condition of the Town Hall audio/visual capabilities.</p> <p>Mr. Cudy reported he has observed several deficiencies with the audio system in Town Hall. The following represents the key points discussed:</p> <ul style="list-style-type: none"> ➤ Town Hall audio/video (a/v) system should accommodate overflow crowds; i.e., lobby enhancements and/or off-site viewing. ➤ Mr. Cudy proposed a large overhead screen on the wall behind the City Council dais for easier audience viewing; people seated at the dais would be able to view presentations on computer screens. ➤ Mayor Dirksen and Councilor Harding noted issues with their laptop computers, including that the batteries no longer hold a charge for very long. ➤ Mr. Cudy noted the multi-purpose uses of the Town Hall. He suggested that one person operate the controls of the a/v system during the meetings; i.e., the recorder or secretary. ➤ Mr. Cudy recommended headset microphones for best results. ➤ Sufficient microphones for everyone seated at the dais and the public testimony desk are needed. ➤ Councilor Sherwood noted a preference for turning on the microphone when an individual wants to speak. ➤ Review of the system will include a testimony timing system and digital recording. Mr. Cudy said he would like to "clean up" the system; do away with the numerous power cords that are visible. Mr. Cudy said he plans to develop a | |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
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| | <p>system that will be good to use ten years from now.</p> <ul style="list-style-type: none"> ➤ City Manager Prosser noted the need to determine what a/v equipment will be made available for public use. | |
| <p>5. Discuss Whether to Initiate a Development Code Amendment to Allow Non-Residential Uses in a Residential Zoning District at the Quello House and Similar Properties</p> | <p>Community Development Director Coffee advised that City Council members Harding and Woodruff indicated interest in facilitating the use of the Quello House for limited commercial use.</p> <p>City Manager Prosser explained the process for this matter. If a Code Amendment is considered to set up a procedure for a conditional use permit, the legislative hearing process would be followed. If the Code Amendment is approved, Mr. Quello would need to apply for a Conditional Use Permit by going before the Hearings Officer; this would be a quasi judicial hearing.</p> <p>Mr. Quello spoke to the City Council. He submitted a written statement outlining how a conditional use approval would benefit his property. A copy of this statement is on file in the City Recorder's office.</p> <p>His key points were:</p> <ul style="list-style-type: none"> ➤ There is a need in the City of Tigard for this type of facility. ➤ The Quellos are willing to share this facility with the community at no cost to the taxpayers. ➤ Historic property will disappear if a way is not found to make such property viable. <p>In response to a question from Councilor Sherwood, Mr. Quello advised he and his wife have no plans to use this facility as a Bed and Breakfast Inn.</p> <p>Councilor Woodruff commented that the 100-year old, restored Quello home is an asset for the City of Tigard. He said he would like to figure out a solution so a property such as this does not get sold for development. He said he understands there was neighborhood opposition to the events held at the Quello house in the past. Councilor Woodruff said he supported reviewing this again.</p> | <p>After discussion, consensus of the City Council was to initiate the Community Development Code Amendment process for consideration of establishing an overlay zone or conditional use process.</p> |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
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| | <p>Councilor Wilson said he was serving on the Planning Commission when this issue came before the City last time regarding the Quello property. While the alternative might be that the property will be sold to a developer, there was a need to balance neighborhood concerns.</p> <p>Mr. Quello acknowledged the issues previously, which he characterized as a learning experience. At that time, weddings were being conducted on the property. If he is allowed to have events on the property, he said he would agree to restrictions, including rules regarding amplified music and the use of "DJ's."</p> <p>Discussion followed regarding parking and concerns that might arise. Community Development Director Coffee suggested that conditional use standards could be developed to address these types of issues.</p> <p>Mr. Quello advised the Quello House was listed on the National Historical Site registry, which must be renewed every 15 years. He will need to reapply next year to retain this designation.</p> <p>Councilor Harding supported another review and coming up with something creative for the Quello House.</p> <p>Councilor Sherwood said she would be happy if a good compromise could be found. She suggested that Mr. Quello talk to his neighbors to build support for his proposal.</p> <p>Community Development Director Coffee referred to the process for a Community Development Code text amendment to allow conditional uses on historical sites. The legislative hearings on a proposed text amendment would take place before the Planning Commission and the City Council. He reiterated that if the text amendment is approved, the conditional use approval for a specific site will be held before the hearings officer. Neighbors would be notified of this conditional use hearing.</p> | |

| Agenda Item | Discussion & Comments | Action Items (follow up) | | | | | | | | | | |
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| 6. Discuss City Council Report Card | <p>Assistant City Manager Newton presented the staff report.</p> <p>At the May 16, 2006, City Council meeting, Council members asked that the Committee for Citizen Involvement review and provide comments on the proposed Council report card. Councilor Sherwood noted that she and Councilor Woodruff came across the report card idea and thought this would be a good evaluation tool for Tigard City Council. Councilor Woodruff suggested using the proposed format this year and modify as needed. Report cards could be done every year or two.</p> | <p>After discussion, City Council members agreed that staff should review the report card draft and make appropriate grammatical changes. Room should be left after each question for written comments. The Report Cards will be submitted to Board and Committee Chairs and the Executive Staff. Names of persons filling out the card will not be requested; however, the City Council would like differentiation between the two groups; that is, identify whether the form was completed by a Board/Committee member or an Executive Staff member.</p> | | | | | | | | | | |
| 7. Update on the Status of the 2006 City Council Goals | <p>Assistant City Manager Newton presented the staff report. The summary of progress made on the City Council goals for the second quarter of 2006 is on file in the City Recorder's office.</p> | | | | | | | | | | | |
| 8. Consider an Amendment to the City Council Groundrules | <p>City Council discussed the Council Groundrules on July 11, 2006. The following wording was proposed for consideration as an addition to the City Council Groundrules: <i>Council members should attempt to give at least 24 hours' notice, by advising the City Manager and the City Recorder of a request to remove a Consent Agenda item for separate discussion.</i></p> <p>RESOLUTION NO. 06-51 – A RESOLUTION AMENDING THE COUNCIL GROUNDRULES (EXHIBIT A) AND SUPERSEDING RESOLUTION NO. 04-83</p> | <p>Motion by Councilor Sherwood, seconded by Councilor Woodruff, to adopt Resolution No. 06-51.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>Yes</td></tr><tr><td>Councilor Sherwood</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table> | Mayor Dirksen | Yes | Councilor Harding | Yes | Councilor Sherwood | Yes | Councilor Wilson | Yes | Councilor Woodruff | Yes |
| Mayor Dirksen | Yes | | | | | | | | | | | |
| Councilor Harding | Yes | | | | | | | | | | | |
| Councilor Sherwood | Yes | | | | | | | | | | | |
| Councilor Wilson | Yes | | | | | | | | | | | |
| Councilor Woodruff | Yes | | | | | | | | | | | |
| 9. Consent Agenda | <p>Mayor Dirksen reviewed the Consent Agenda before the City Council:</p> <p>9.1 Approve Council Minutes for July 18, 2006</p> | <p>Motion by Councilor Wilson, seconded by Councilor Sherwood, to approve the Consent Agenda.</p> | | | | | | | | | | |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
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| | <p>9.2 Appoint Building Appeals Board Member - Resolution No. 06 -52</p> <p>A RESOLUTION OF THE TIGARD CITY COUNCIL APPOINTING DAN PELISSIER TO THE TIGARD BUILDING APPEALS BOARD</p> <p>9.3 Approve Budget Amendment #4 to the FY 2006-07 Budget to Increase Appropriations in the Gas Tax Capital Projects Budget within the Community Investment Program for Additional Funding for the Hall Boulevard Sidewalk Project – Resolution No. 06-53</p> <p>A RESOLUTION APPROVING BUDGET AMENDMENT #4 TO THE FY 2006-07 BUDGET TO INCREASE APPROPRIATIONS IN THE GAS TAX CAPITAL PROJECT BUDGET WITHIN THE COMMUNITY INVESTMENT PROGRAM FOR ADDITIONAL FUNDING FOR THE HALL BOULEVARD SIDEWALK PROJECT</p> <p>9.4 Approve Budget Amendment #5 to the FY 2006-07 Budget to Increase Appropriations in the Parks Capital Project budget within the Community Investment Program for Additional Funding for the Tualatin River/Cook Park Trail from Garden to Bridge Project – Resolution No. 06-54</p> <p>A RESOLUTION APPROVING BUDGET AMENDMENT #5 TO THE FY 2006-07 BUDGET TO INCREASE APPROPRIATIONS IN THE PARKS CAPITAL PROJECTS BUDGET WITHIN THE COMMUNITY INVESTMENT PROGRAM FOR ADDITIONAL FUNDING FOR THE TUALATIN RIVER/COOK PARK TRAIL FROM GARDEN TO BRIDGE PROJECT</p> <p>9.5 Local Contract Review Board: a. Award Contract for the Construction of the</p> | <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes Councilor Woodruff Yes</p> |

| Agenda Item | Discussion & Comments | Action Items (follow up) |
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| | <p>FY 2006-07 Pavement Major Maintenance Program (PMMP) – Phase 1</p> <p>b. Award Contract for Grounds Maintenance at the City's Water Reservoir Sites and Storm Water Quality Facilities</p> | |
| Administrative Items | <p>City Manager Prosser reviewed the following Administrative Items with the City Council:</p> <ul style="list-style-type: none"> ➤ Mayor Dirksen advised Tri-Met would like to hold its quarterly board meeting (October 25) in the City of Tigard. It is possible there will be a demonstration of the equipment that lays railroad track a quarter mile at a time. ➤ Potential joint meeting with the Intergovernmental Water Board and the City of Lake Oswego City Council on October 24. The consultant will present information so policy discussions can begin. ➤ Fifth Tuesday Council Meeting will be on August 29, 2006, 7-9 p.m. in the Tigard Water Building. ➤ Status of nominations for Mayor and City Council candidates for November 2006 election: Mayor Candidate: Craig Dirksen; Councilor Candidate Gretchen Buehner. Nominations for Mayor are closed; nominations for Council members close August 28, 4 p.m. | |

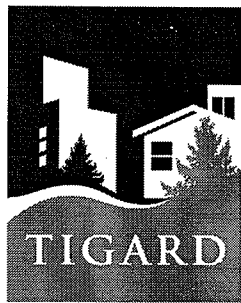
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| Adjournment | The meeting adjourned at 8:53 p.m. | <p>Motion by Councilor Sherwood, seconded by Councilor Woodruff, to adjourn the meeting.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes Councilor Woodruff Yes</p> |
|-------------|------------------------------------|--|

Attest:

Catherine Wheatley, City Recorder

Mayor, City of Tigard

Date: _____



MEMORANDUM

TO: Honorable Mayor & City Council

FROM: Cathy Wheatley, City Recorder

RE: Three-Month Council Meeting Calendar

DATE: September 5, 2006

Agenda Item No. 6.2a
For Agenda of September 12, 2006

Regularly scheduled Council meetings are marked with an asterisk (*).

September

| | | |
|-----|---------|---|
| 4 | Monday | Labor Day Holiday – City Hall Closed |
| 12* | Tuesday | Council Business Meeting – 6:30 pm, Town Hall |
| 19* | Tuesday | Council Workshop Meeting – 6:30 pm, Town Hall |
| 26* | Tuesday | Council Business Meeting – 6:30 pm, Town Hall |

October

| | | |
|-----|---------|---|
| 10* | Tuesday | Council Business Meeting – 6:30 pm, Town Hall |
| 19* | Tuesday | Council Workshop Meeting – 6:30 pm, Town Hall |
| 24* | Tuesday | Council Business Meeting – 6:30 pm, Town Hall |
| 31 | Tuesday | Fifth Tuesday Council Meeting – 7-9 pm, Tigard Water Auditorium |

November

| | | |
|-------|---------|--|
| 14* | Tuesday | Council Meeting with Lake Oswego City Council – 6:30 pm, Lake Oswego City Hall |
| 10 | Friday | Veteran's Day Holiday – City Hall Closed |
| 21* | Tuesday | Council Workshop Meeting – 6:30 pm, Town Hall |
| 28* | Tuesday | Council Business Meeting – 6:30 pm, Town Hall |
| 23-24 | Tuesday | Thanksgiving Holiday – City Hall Closed |

| | | |
|--|--|---|
| Meeting Date: September 12, 2006 Meeting Type/Time: Business/6:30 p.m. Location: City Hall Greeter: Public Works Materials Due @ 5: August 29, 2006 Woodruff & Prosser will be absent. | Meeting Date: September 19, 2006 Meeting Type/Time: Workshop/6:30 p.m. Location: City Hall Greeter: Public Works Materials Due @ 5: September 5, 2006 | Meeting Date: September 26, 2006 Meeting Type/Time: Business/6:30 p.m. Location: City Hall Greeter: Public Works Materials Due @ 5: September 12, 2006 Newton out |
| Study Session | Workshop Agenda | Study Session |
| Consideration of COLA for Mgmt./Prof. Group Sandy Z. - 10 min. Executive Session on Pending Litigation Contract Amendment adding Streets to the 06-07 Pavement Major Maint. Program - Tom C. 10 min. | Draft Ordinance - Proposed Local Gas Tax - Task Force & Gus D. - 20 min. Joint Meeting with Park and Recreation Advisory Board - Dennis K./Dan P. - 30 min. CCAC Bylaws - Phil N., Tom C. - 30 min Downtown Land Use Design Guidelines - Phil N. - 40 min. Review & Discuss Streetscape Plan - Tom C. - PPT - 60 min. Discuss MTIP Transportation Priorities 2008-2011 - Project Selection Update Gus. D. - 10 min. Presentation on Services offered by Luke-Dorf Bill D. - 20 min. | Discussion of Citywide Employee Survey - Sandy Z. - 15 min. Discuss Potential Jaywalking Ordinance- Bill D. - 15 min. Audio/Visual Designs - Gary E. - 30 min. |
| Consent Agenda | | Consent Agenda |
| LCRB - Award Contract for the Construction of Pine St. - Street & Storm Drainage Imp. - Tom C. LCRB - Award Contract - Ash Ave Ext. - Vannie LCRB - Amend Prof. Svcs. Agreement for 550-foot Reservoir No. 2 - Dennis K. Appt Kelly Johnson to PRAB - RES - Dan P. LCRB - Police Car Purchase - Dennis K. IGA - Wash. Co. - Share in "Transient Room Tax Revenues - Bob | | Authorize CDBG application submittals for Sr. Center & Garrett St. sidewalk improvement - Duane R. - RES Consider Adoption - COLA for Mgmt./Prof. Group Resolution - Sandy LCRB - Amend Contract Adding Streets on Pavement Major Maint. Prog. - Tom C. |
| Business Meeting | | Business Meeting |
| Proclaim Sept. 17-23 Constitution Week - 5 min. Proclaim September as National Drug Addiction Recovery Month - Craig D - 5 min. THS Student Envoy Jasmina Dizdarevik -10 min. Heritage Tree Nominations - Matt S. - 5 min. Acceptance of \$150,000 in Matching Funds to Construct the Jim Griffith Memorial Skate Park Dan Plaza - 10 min. Presentation in Appreciation of Tigard from the Friends of the Tual. River Nat'l Wildlife Refuge -10 min | | Chamber President Ralph Hughes - 10 min. Recognize Jim Wolf - Bill D. - 5 min. Resolution in Support of the WCCLS Library Operational Levy - Margaret B. - 5 min. - RES Finalization of Sewer Reim. Dist. #32 (Fern St.) Info. Public Hearing, PPT, Gus D. - RES - 10 min. Consider Adopting Tigard Downtown Streetscape Plan - Denver I. - PPT - RES - 30 min. Cach Creek Area Annexation - PHQJ - ORD Tom C. - 60 min. |
| Time Avail: 135 min. - Time Scheduled: 45 min. Time Left: 90 min. | Time Avail: 200 min. - Time Scheduled: 210 min. Time Left: - 10 min. | Time Avail: 135 min. - Time Scheduled: 120 min. Time Left: 15 min. |

Tigard City Council Tentative Agenda 2006

| | | | | | |
|---|--|--|---|---|--|
| Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5: | October 10, 2006 Business/6:30 p.m. City Hall September 26, 2006 | Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5: | October 17, 2006 Workshop/6:30 p.m. City Hall October 3, 2006 | Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5: Newton out | October 24, 2006 Business/6:30 p.m. City Hall October 10, 2006 |
| Study Session | | Workshop Agenda | | Study Session | |
| | | Joint Meeting with Senior Center Board - Loreen - 30 min. - SI Joint Meeting with the Budget Committee - Bob - 45 min. - SI Enhanced Citizen Participation Update - Liz - 30 min. - SI Presentation of Tigard Community Profile - 2006 Edition - Tom C. - PPT - 15 min. | | | |
| Consent Agenda | | | | Consent Agenda | |
| LCRB - Award Contract for Hydrogeologist of Record - B. Rager | | | | | |
| Business Meeting | | | | Business Meeting | |
| THS Student Envoy Jasmina Dizdarevik -10 min. Update on Proposed WCCLS Operational Levy - Margaret B. - 15 min. Police Department Annual Report - Bill D - 30 min Citizen Comm. - Tualatin Resource Center Annual Update - Catherine West, Dir. - SI - 10 min. Quarterly Emergency Management Program Update - Mike L.- 20 min. Commuter Rail Update - Gus - 20 min. 3rd Quarter Goal Update - Craig P. - 10 min. | | | | Proclamation - National Magic Week Chamber President Ralph Hughes - 10 min. TMC Section on Explanatory Statements for any Initiative or Referendum by Petition - Cathy W. 10 min. - ORD | |
| Time Avail: 135 min. - Time Scheduled: 115 min. Time Left: 20 min. | | Time Avail: 200 min. - Time Scheduled:120 min. Time Left: 80 min. | | Time Avail: 135 min. - Time Scheduled: 10 min. Time Left: 125 min. | |

Tigard City Council Tentative Agenda 2006

| | | | | | |
|---|--|---|---|---|---|
| Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5: | October 31, 2006 5th Tuesday/7 p.m. Water Building Aud. | Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5: | November 14, 2006 Lake Oswego October 31, 2006 | Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5: | November 21, 2006 Workshop/6:30 p.m. City Hall November 7, 2006 |
| Fifth Tuesday Meeting | | Study Session | | Workshop Agenda | |
| | | | | | |
| | | Consent Agenda | | | |
| | | | | | |
| | | Business Meeting | | | |
| | | Hold for Joint IWB and Lake Oswego City Council Meeting | | | |
| | | Time Avail: 135 min. - Time Scheduled: 0 min. Time Left: 135 min. | | Time Avail: 200 min. - Time Scheduled: min. Time Left: min. | |

FIFTH TUESDAY MEETING – August 29, 2006

Present: Mayor Dirksen
Councilor Sherwood
Councilor Wilson
Councilor Woodruff

Facilitator: Basil Christopher
Staff: Carol Krager

Citizens: John Frewing, 7110 SW Lola Lane, Tigard
Gretchen Buehner, 13249 SW 136th Place, Tigard
Andrew Storment, 15367 SW 82nd Place, Tigard

Press: Barbara Sherman

The meeting started at 7:04 p.m. Citizen Facilitator Christopher welcomed everyone to the meeting. Mayor Dirksen explained the Fifth Tuesday meeting process and the role of the citizen facilitator.

PARKS SDC – Mr. John Frewing urged the Council to update the Parks SDC's as soon as possible. He said he is concerned that the City is losing money everyday because the rates are too low and based on out of date data. He said we are two months into the fiscal year and already the prices that were paid for parks are 20% above the average of the numbers in the methodology which he feels is out of date. He suggested there be a change to the update methodology rather than a complete review.

Councilor Sherwood noted that she has mixed feelings about increasing charges because of the affordable housing issue. She said there is a need for parks but she doesn't want to keep driving up housing prices.

Councilor Wilson said that while rates were nearly doubled and money is in the account, we can't spend some funds unless they are matched with our own funds. He suggested a bond measure or other source would help the City match this money. Mr. Frewing expressed support for a bond measure.

Mayor Dirksen mentioned Metro's Open Spaces bond measure which will be on the November ballot and noted he agreed to add his name to the list of supporters, although he and other mayors were disappointed with the parcel selection process. He said he hoped more land would be identified that was inside the Urban Growth Boundary.

Councilor Woodruff suggested that Parks staff could examine the current formula and determine if it is still reasonable. They could also consider whether there would be support for changing the update procedure.

Gretchen Buehner noted that many citizens and even City committee members don't understand how the Tigard Parks SDC's are used. She asked if it would be appropriate to do a Cityscape article explaining the formula. Councilor Sherwood noted that some articles

were written recently in response to parks questions raised by residents living on Bull Mountain. She agreed that this is a complex issue many people don't understand.

ACTION ITEMS:

- Parks staff should do a study – is Tigard's Parks SDC methodology keeping pace? Should the update procedure be changed?
- Publish a Cityscape article explaining the SDC formula to the public.

BAN OF ALCOHOL IN PARKS – Andrew Storment, of Boy Scout Troop 423 is working on a merit badge and needed to interview public officials on an issue. He chose the recently passed ban on alcohol in certain city parks as his discussion issue.

Question 1: How did the alcohol ban come about?

Mayor Dirksen said there were citizen concerns about public drinking in some parks. This ban is a tool to help prevent unwanted behavior and loitering. He mentioned that Tigard was the only city in the Portland metropolitan area that did not have such a ban and the Council did not want Tigard parks to become a destination for this activity.

Councilor Sherwood said there are people living in camps in the parks. The landscaping is conducive to this activity because of heavy brush and blackberry cover. She said a lot of this is due to chronic homelessness and mentioned that pushing people from one area will just move them into another area unless the underlying cause is addressed. She mentioned that a local agency, Luke-Dorf, has an outreach person that goes out to talk to people living in the parks to offer information on services and resources available to them. She suggested that Neighborhood Watch walks be started along some of the park trails.

Mayor Dirksen noted that this ban would not solve the problem; it is just another tool for the City to help discourage undesirable activities in public areas.

Question 2: How many votes did it take to pass the ban?

Mayor Dirksen said there were five votes; it passed unanimously.

Question 3: How many people had complained about the use of alcohol in city parks?

Councilor Wilson said the City receives 2-3 complaints per week. Councilor Sherwood said it was enough for the Council to see that this is a problem they needed to do something about.

ACTION ITEMS:

- Talk to ODOT about cutting brush and berry bushes on land they control. Keep brush trimmed in City parks.
- Start Neighborhood Watch Walks in secluded neighborhood parks. Regular walks on trails may discourage gatherings and camps.

Mayor Dirksen reported that the deadline for Council candidate filing had passed this week and he was running unopposed for reelection. He said Councilor Sherwood is running for reelection on the City Council and Councilor Wilson had chosen not to run for reelection. He noted that audience member Gretchen Buehner is also running for Council.



As there were no other discussion items or citizens wishing to speak, the meeting was adjourned at 7:30 p.m.

Agenda Item #
Meeting Date

6.3
September 12, 2006

COUNCIL AGENDA ITEM SUMMARY
City Of Tigard, Oregon

Issue/Agenda Title Appoint Kelly Johnson to the Park and Recreation Advisory Board (PRAB)

Prepared By: Dennis Koellermeier Dept Head Approval:  City Mgr Approval: 

ISSUE BEFORE THE COUNCIL

Shall City Council adopt a resolution appointing Kelly Johnson to the PRAB?

STAFF RECOMMENDATION

Adopt the resolution.

KEY FACTS AND INFORMATION SUMMARY

- In December, 2005, the Council appointed Kelly Johnson as an alternate member to the PRAB.
- On August 15, 2006, PRAB member Carl Switzer resigned, creating an opening on the Board.
- Staff is proposing Ms. Johnson be appointed to complete Mr. Switzer's term, which expires December 31, 2007.

OTHER ALTERNATIVES CONSIDERED

The Council could decide not to appoint Kelly Johnson to the Board.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

Tigard Beyond Tomorrow: Community Character & Quality of Life

Volunteerism #1) City will maximize the effectiveness of the volunteer spirit to accomplish the greatest good for our community.

ATTACHMENT LIST

1. Resolution
2. Biographical Information on Ms. Johnson

FISCAL NOTES

There are no costs associated with this appointment.

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 06-_____

A RESOLUTION APPOINTING KELLY JOHNSON AS A MEMBER OF THE PARK
AND RECREATION ADVISORY BOARD

WHEREAS, the City Council activated the Park and Recreation Advisory Board by Ordinance No. 03-02 on April 22, 2003; and

WHEREAS, with the resignation of Carl Switzer on August 15, 2006, a vacancy now exists on the Park and Recreation Advisory Board; and

WHEREAS, Kelly Johnson was appointed as an alternate member of the Park and Recreation Advisory Board on December 20, 2005.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: Kelly Johnson is appointed as a member of the Park and Recreation Advisory Board to complete Carl Switzer's term which expires December 31, 2007.

PASSED: This _____ day of _____ 2006.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

Biographical information on Park and Recreation Advisory Board (PRAB) appointee

Kelly Jean Johnson has lived in Tigard for approximately 2 years. She is currently serving as an Alternate Board Member on the PRAB. She holds an MBA in sports marketing from the University of Oregon and a BSBA in marketing from Creighton University. She is currently a sales director with Brainstorm NW Magazine in Lake Oswego. She feels it is important for a city to provide its residents with safe, clean, enjoyable, and effective facilities, programs, and clubs to promote general health, well-being, education, and youth experiences. She wants to apply her experiences and education to assist in developing the programs and facilities to best serve the community. She has served on advisory boards including the U.S. Olympic Committee, the Ford Gorge Games, the Boys and Girls Club of Omaha, and the Cedar Rapids (Iowa) River Raiders USBL team.

Agenda Item #
Meeting Date

6.4
September 12, 2006

COUNCIL AGENDA ITEM SUMMARY
City Of Tigard, Oregon

Issue/Agenda Title A Resolution Declaring Agreement With Washington County Code Section 3.08.170.B and Authorizing the City Manager to Execute an Intergovernmental Agreement Between Washington County and the City of Tigard For the Purpose of Sharing of Transient Room Tax Revenues.

Prepared By: Robert Sesnon Dept Head Approval: RPJ City Mgr Approval: CR

ISSUE BEFORE THE COUNCIL

Shall the City Council adopt a resolution declaring agreement with Washington County Code section 3.08.170.B and authorizing the City Manager to execute an intergovernmental agreement between Washington County and the City of Tigard for the purpose of sharing of Transient Room Tax Revenues?

STAFF RECOMMENDATION

Approve this Resolution and Direct the City Manager to execute the Intergovernmental Agreement between the City of Tigard and Washington County.

KEY FACTS AND INFORMATION SUMMARY

In May 2006, the voters of Washington County approved a two-percentage point increase in the preexisting transient room tax, bringing the rate to 9%. All additional funds generated as a result of this increase, which became effective July 1, 2006, are dedicated to promoting tourism.

Because the distribution formula has now changed, County Code section 3.08.170 requires each city within the county to adopt and file with the County a resolution declaring it agrees with the provisions of County Code 3.08.170.B, which states that the City will receive 50% of 5/9ths of the amounts collected within the city boundaries, so long as it does not adopt its own transient room tax.

Effective July 1, 2006, Transient Room Tax revenues generated within cities in Washington County are allocated as follows:

- Lodging operators keep 5% of collections (to offset collection costs)
- Of the remaining 95%-
 - 3/9 to promote tourism
 - 1/9 to the Washington County Fair
 - 50% of 5/9 to cities
 - 50% of 5/9 to Washington County

In order for the City to receive Transient Room Tax funds it must approve this resolution and execute the intergovernmental agreement.

OTHER ALTERNATIVES CONSIDERED

None.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

This is consistent with the Council's goal to stabilize the financial picture.

ATTACHMENT LIST

Intergovernmental agreement between the City of Tigard and Washington County

FISCAL NOTES

This agreement allows the City to receive Transient Room Tax revenues collected by the Washington County, estimated at \$325,000 for the 2006-07 FY.

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 06-

A RESOLUTION OF THE CITY OF TIGARD DECLARING AGREEMENT WITH WASHINGTON COUNTY CODE SECTION 3.08.170.B, IN ORDER THAT AN INTERGOVERNMENTAL AGREEMENT MAY BE ENTERED INTO BETWEEN THE CITY OF TIGARD AND WASHINGTON COUNTY FOR THE PURPOSE OF SHARING TRANSIENT ROOM TAX REVENUES

WHEREAS, the Washington County Transient Room Tax has existed since 1985 and is authorized by County Code section 3.08; and

WHEREAS, In May 2006 the voters of Washington County approved a two-percentage point increase in the tax, bringing the rate to 9%; and

WHEREAS, this increase is dedicated to promoting tourism within Washington County; and

WHEREAS, this change effects the distribution formula in effect prior to the rate increase and thus requires that the related Intergovernmental Agreement in effect between the City of Tigard and Washington County be updated.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: In lieu of adopting a City of Tigard transient room tax, and for the purpose of entering into an agreement with Washington County to receive distributions of receipts from the County Transient Room Tax in a manner provided by Washington County Code section 3.08, the City Council of the City of Tigard hereby agrees as follows:

- a. That the administration and enforcement of such tax shall remain with the Director of the Support Services Department for the county;
- b. That the total transient room tax imposed within the city shall not exceed nine percent of the rent as provided in section 3.08.080 of the Washington County Code.

SECTION 2: The City Manager is authorized to execute an Intergovernmental Agreement between the City and County, substantially in the form attached to this resolution, for the above stated purpose.

SECTION 3: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2006.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

INTERGOVERNMENTAL AGREEMENT

Transient Room Tax

This Agreement is entered into by and between Washington County, a political subdivision of the State of Oregon (County) and the City of _____, a municipal corporation (City).

WHEREAS:

1. Washington County Code Chapter 3.08, the "Transient Room Tax" is a county-wide tax on hotel-motel occupancy;
2. Chapter 3.08.170 provides that tax receipts allocable to hotels and motels in a city may be shared with the city, provided the city adopts a resolution declaring that, in lieu of adoption of its own tax, it agrees to certain terms of Chapter 3.08; and
3. City, by Resolution No. _____, has so declared and the parties desire to enter into an Agreement to implement the terms of Chapter 3.08; now, therefore, it is

AGREED:

1. City, in lieu of adopting its own transient room tax, and in consideration of an allocation of tax receipts arising from hotels and motels in City, hereby consents to the following:
 - a. The administration and enforcement of the transient room tax shall remain with Washington County, acting by and through its Director of Support Services;
 - b. The total amount of transient room tax imposed in City shall not exceed nine percent (9%) of the rent as provided in Section 3.08.080 of the County Code; and
 - c. The amount distributed to City shall be calculated as provided for in Section 3.08.170 C. of the County Code.
2. County shall calculate the amount, if any due to City in accordance with Section 3.08.170 C and shall distribute any amount due to City within 30 days of receipt of the taxes.
3. County and City, by and through their respective finance officers shall cooperate in ensuring that the tax is effectively and efficiently enforced within City. Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party that may result in litigation in any way related to this Agreement.

INTERGOVERNMENTAL AGREEMENT
Transient Room Tax

Page two

4. This Agreement may be terminated by either party upon 30 days written notice. Any amounts due City for receipts prior to the effective date of termination shall be paid within 30 days of termination.

5. Each party shall comply with all applicable federal, state and local laws; and rules and regulations on non-discrimination in employment because of race, color, ancestry, national origin, religion, sex, sexual orientation, marital status, age, medical condition or disability.

6. This writing is intended both as the final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement.

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below.

CITY OF

Signature

Date

Printed Name

Title

Address: _____

WASHINGTON COUNTY

Signature

Date

Printed Name

Title

Address: 155 N First Avenue; MS 25; 334 Public Services Building
Hillsboro OR 97124

Agenda Item #
Meeting Date

6.5a.
September 12, 2006

LOCAL CONTRACT REVIEW BOARD AGENDA ITEM SUMMARY
City Of Tigard, Oregon

Issue/Agenda Title: Contract Awards for Design Services for the Ash Avenue Extension project, and the 97th Avenue and 100th Avenue Sanitary Sewer Reimbursement Districts

Prepared By: Vannie Nguyen *vn* Dept Head Approval: *TC* City Mgr Approval: *CP*

ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

Should Council, acting as the Local Contract Review Board, approve the contract awards to Century West Engineering Corporation to perform design services for the Ash Avenue Extension project (between Burnham Street and the existing railroad tracks), and the 97th Avenue and 100th Avenue Sanitary Sewer Reimbursement Districts?

STAFF RECOMMENDATION

Staff recommends that the Local Contract Review Board, by motion, approve the following contracts to Century West Engineering Corporation:

- Ash Avenue Extension: **\$82,631.00**
- 97th Avenue & 100th Avenue Sanitary Sewer Reimbursement Districts: **\$111,606.00**

Staff further recommends authorization of the additional amounts of \$8,263.00 and \$11,160.00 to be reserved as contingencies for each project respectively and applied as needed as the projects progress towards completion. The total amount committed to the Ash Street Extension project is therefore **\$90,894.00**. The total committed amount for the 97th Avenue & 100th Avenue Sanitary Sewer Reimbursement Districts project is **\$122,766.00**.

KEY FACTS AND INFORMATION SUMMARY

- The workload in the Community Development's Capital Construction & Transportation Division is heavy and the Division staff has not increased to keep pace with the project workload. To expand the Division's capability to meet the project demands in FY 2006-07, staff prepared a Request for Proposal in March 2006 to qualify engineering firms for survey, engineering design and construction management services on an as-needed basis.
- On April 25, 2006, Council approved the contract awards to the following Civil Engineering firms: Century West Engineering Corporation, Group McKenzie, Inc. and W&H Pacific, Inc. Council also authorized the City Manager to execute design contracts with the firms for projects up to and including \$50,000.
- Group McKenzie, Inc. has been authorized to perform the design services for the Tigard Triangle Local Reimbursement District project. W&H Pacific, Inc. is working on a fee proposal for the designs of the 72nd Avenue/Dartmouth Street Signalization and the Red Rock Creek Culvert Replacement projects. Century West Corporation has submitted its fee proposals for the designs of the Ash Avenue Extension and the 97th Avenue and 100th Avenue Sewer Reimbursement Districts projects.

- Staff has reviewed Century West's fee proposals and has determined that the design fees of \$82,631.00 for the Ash Avenue Extension and \$111,606.00 for the 97th Avenue and 100th Avenue Sewer Reimbursement Districts project are appropriate. The fees include topographic survey, preliminary design, final design, construction staking and construction management
- Ash Avenue is a new street, approximately 400 feet long, to be constructed between Burnham Street and the existing railroad tracks. The new street will provide a second entrance and exit to the proposed Commuter Rail station and parking lot identified in the Downtown Improvement Plan. The design will include a half-street improvement, which consists of a 24-foot paved width and a 14-foot wide sidewalk and landscape area on one side of the street. The street will tie into a modern roundabout at the intersection of Burnham Street and Ash Avenue, which is being designed as part of the Burnham Street project. Century West will closely coordinate their work with the Burnham Street design consultant. Ash Avenue is scheduled for construction in the summer of 2007.
- The 97th Avenue Sanitary Sewer Reimbursement District will provide sewer service to 21 lots in the 97th Avenue and Pembroke Street area. The 100th Avenue District will also provide sewer service to 21 lots in the 100th Avenue and Inez Street area. Although both districts will be designed under the same contract, the design costs and other expenditures will be maintained separately for each district. The project is scheduled for construction in the spring of 2007.

OTHER ALTERNATIVES CONSIDERED

None.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

The Ash Avenue Extension project meets the Tigard Beyond Tomorrow Transportation and Traffic goals of "Improve Traffic Flow and Safety". It also directly supports the Council Goal to "Implement Downtown Plan."

The 97th Avenue and 100th Avenue Sanitary Sewer Reimbursement Districts project is part of the Citywide Sewer Extension Program established by City Council to provide sewer service to developed but unserved residential areas in the City. It meets the Tigard Beyond Tomorrow Growth and Growth Management goal of "Growth will be managed to protect the character and livability of established areas, protect the natural environment and provide open space throughout the community." Sewer service enhances the environment and protects the health of the residents by providing for the closure of septic systems 40 to 50 years old.

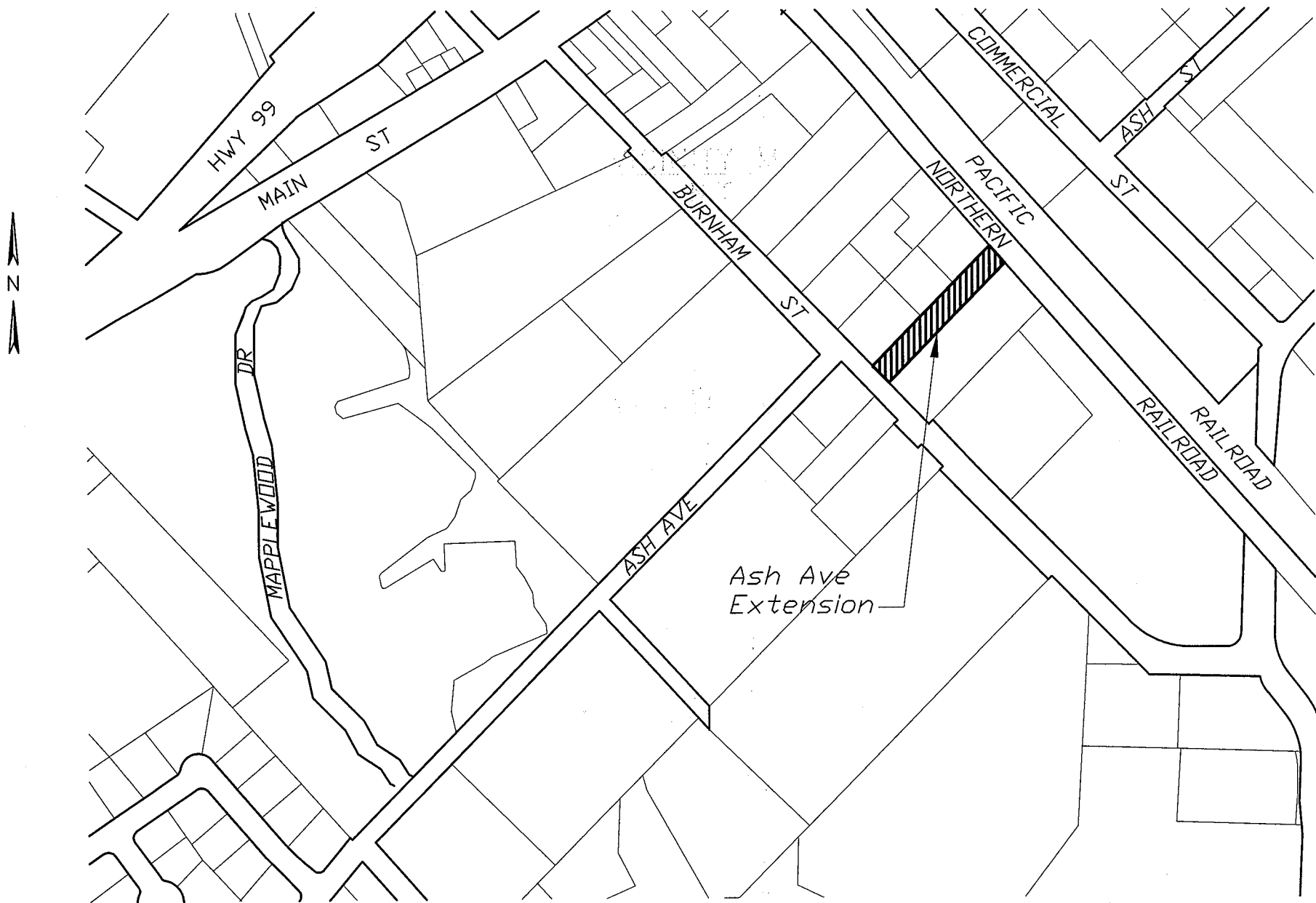
ATTACHMENT LIST

Project Location Maps.

FISCAL NOTES

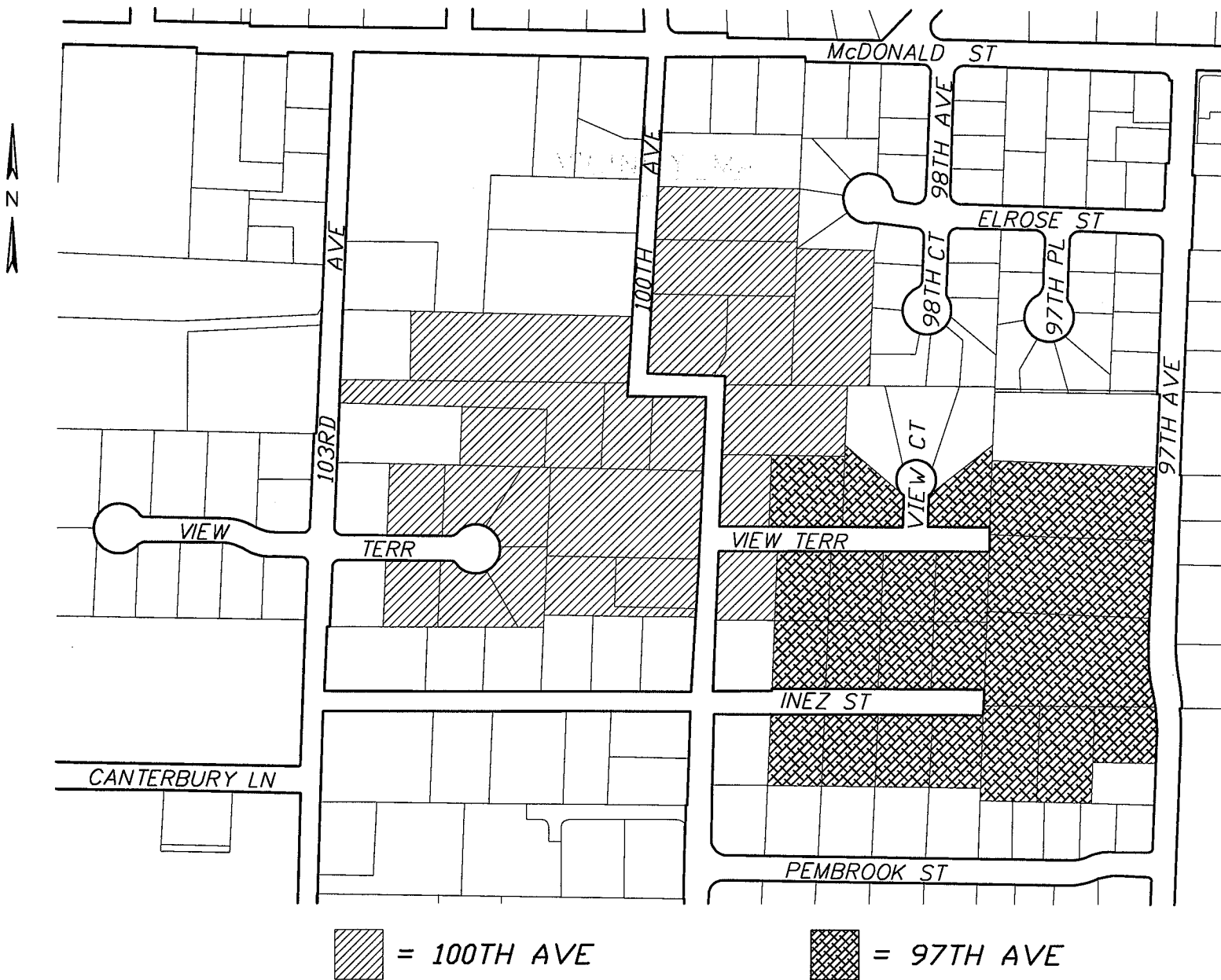
The amount of \$300,000 is available in the FY 2006-07 CIP Gas Tax Fund for the Ash Avenue Extension project and \$2,000,000 is available in the Citywide Sanitary Sewer Extension Program for the 97th Avenue, 100th Avenue and other sewer extension projects. These amounts are sufficient to award the design contracts of \$82,631.00 and \$111,606.00 to Century West Engineering Corporation. These funds are also sufficient to allow the additional amounts of \$8,263.00 and \$11,160.00 to be set aside as contingency funds for the projects.

ASH AVE EXTENSION



VICINITY MAP
NTS

97TH & 100TH AVE SANITARY SEWER REIMBURSEMENT DISTRICTS



VICINITY MAP
NTS


Agenda Item #
Meeting Date


656.
September 12, 2006

LOCAL CONTRACT REVIEW BOARD AGENDA ITEM SUMMARY
City Of Tigard, Oregon

Issue/Agenda Title: Award of Contract for the Construction of Pine Street – Street and Storm Drainage Improvements

Prepared By: Vannie Nguyen

Dept Head Approval: 

City Mgr Approval: 

ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

Shall the Local Contract Review Board approve the contract award for the construction of Pine Street – Street and Storm Drainage Improvements?

STAFF RECOMMENDATION

Staff recommends that the Local Contract Review Board, by motion, approve the contract award to Landis & Landis Construction, LLC in the amount of **\$336,018.01** and authorize an additional amount of **\$33,601.80** to be reserved for contingencies and applied as needed as the project goes through construction. The total amount committed to the project is therefore **\$369,619.81**.

KEY FACTS AND INFORMATION SUMMARY

- The project was advertised for bids on August 8 and August 10, 2006 in the Daily Journal of Commerce and The Times respectively. Bids were opened on August 24, 2006 at 2:00 pm and the bid results are:

| | | |
|-----------------------------------|--------------|-------------------------------|
| Landis & Landis Construction, LLC | Portland, OR | \$336,018.01 (low bid) |
| Dunn Construction, Inc | Portland, OR | \$356,070.00 |
| Engineer's Estimate Range | | \$177,000 to \$217,000 |

- Although the bids submitted are much higher than the estimated cost range in the Engineer's Estimate, the two bids are relatively close together. The subtotal for the storm drainage improvements in the low bid is approximately 15% higher than the Engineer's Estimate, which is a reasonable increase. However, the bid items for the roadwork are uniformly higher throughout on both bids and are approximately double the estimate on the low bid. The relatively small variance between the two bids suggests that the higher cost is a more accurate representation of the industry cost for completing the proposed street and storm drainage improvements. Material and construction costs associated with fuel expenses have risen significantly during the past year. These costs are anticipated to remain high and are even likely to continue to escalate over time. In addition, the project is not large enough to achieve economies of scale since the bid item quantities are relatively small and some of the work is labor intensive.

Therefore, it is unlikely that a future re-bid of this project will yield a lower construction cost. A review of two major road projects recently bid by Washington County and a small parking lot project in the City of Sherwood indicate a trend towards higher prices for unit bid items. Although the Pine Street project is not directly comparable to those projects, it is clear that the cost estimates need to be raised significantly to reflect the current bidding atmosphere, especially on relatively small projects. Finally, rejection of bids would

add this project to a growing list of projects slated for bid advertisements in the spring of 2007. That logjam of projects, both rebids and planned, does not bode well for a lower bid on this project at that time. A contract award to the low bidder on this project would allow for better spacing of construction work throughout the fiscal year and should encourage more competition on those projects already planned for the spring of 2007.

- Pine Street is classified as Local Street and located in the northeast quadrant of the City. Problems with the street include poor pavement condition, narrow width, and inadequate drainage that creates water buildup along the side yard of a property on the street. This project will reconstruct the entire length of the street, which is approximately 815 feet, beginning from east of 69th Avenue to the end of the street. The project will also install 900 lineal feet of storm drain pipes, five manholes and six inlets to replace the existing inefficient drainage system. Other drainage facilities include asphaltic concrete (AC) berm and concrete ditch to direct and collect storm runoff. Sidewalks and curbs are not included in the project since the street is being rehabilitated as part of the Pavement Major Maintenance Program (PMMP).
- Storm drainage easements have been obtained from two property owners to convert a private storm line and inlet to a public drainage system.
- To resolve location conflicts between the existing water line that is under the jurisdiction of Tualatin Valley Water District and the new storm drainage system, the District will complete the necessary relocation of the water line by the end of September to provide clearance for construction of the project.
- The construction is anticipated to begin the first week of October and is expected to be completed in late November.

OTHER ALTERNATIVES CONSIDERED

Reject the bids and re-bid the project in the spring of 2007.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

This project meets the Tigard Beyond Tomorrow Transportation and Traffic goals of "Improve Traffic Flow and Safety".

ATTACHMENT LIST

Project location map

FISCAL NOTES

This project will be funded through three funding sources: the Street Maintenance Fee Fund, the Gas Tax Fund, and the Stormwater Fund. The amounts of \$950,000, \$210,000 and \$195,000 are budgeted in each fund respectively. However, on August 22, 2006, Council awarded a construction contract of \$279,763.23 for the FY 2006-07 Pavement Major Maintenance Program – Phase 1 leaving approximately **\$670,000** in the Street Maintenance Fee Fund account.

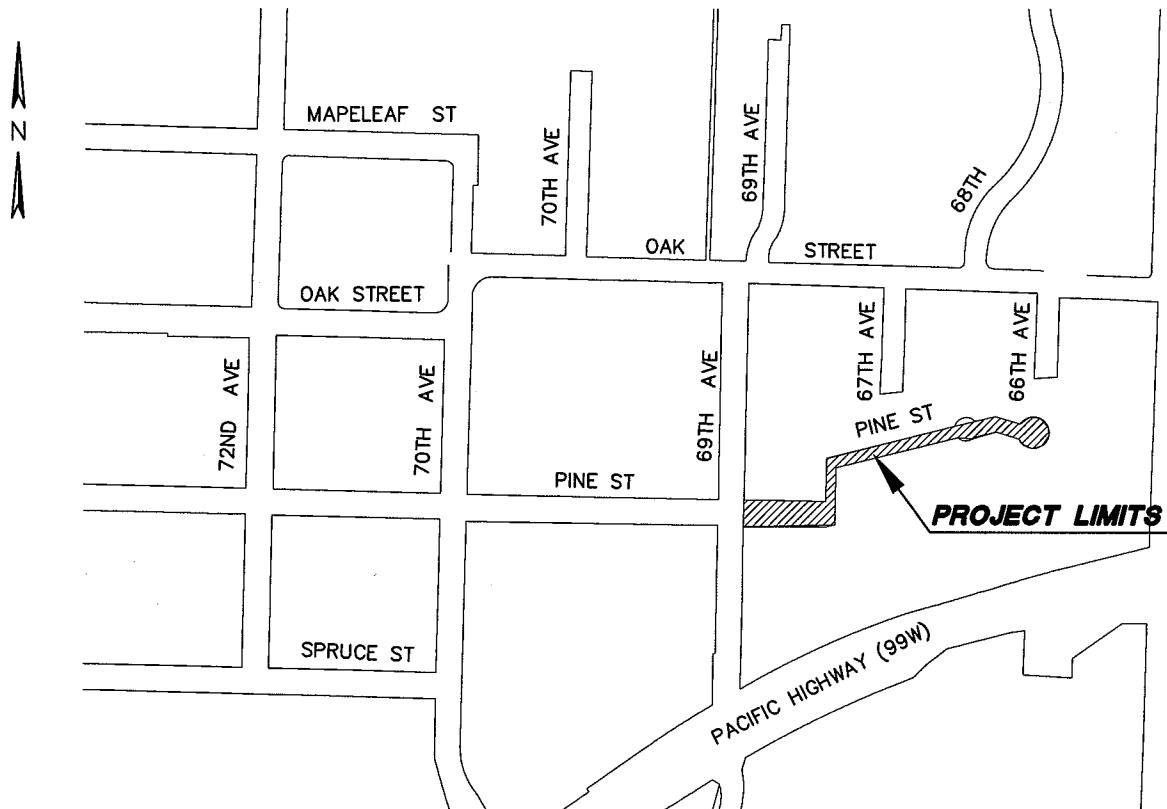
The lowest bid submitted includes the following bid schedules:

| | |
|--------------------------------|---|
| - Street Improvement: | \$207,683.50, with 10% contingencies \$20,768.35 |
| - Storm Drainage Improvements: | \$128,334.51, with 10% contingencies \$12,833.45 |
| Total: | \$336,018.01, with 10% contingencies \$33,601.80 |

The available amounts of **\$670,000** in the Street Maintenance Fee Fund, **\$210,000** in the Gas Tax Fund, and **\$195,000** in the Stormwater Fund are sufficient to award a construction contract of **\$336,018.01** for the project and provide a contingency amount of **\$33,601.80** for a total project commitment of **\$369,619.81**.

It should also be noted that this project has received a **\$2,180** credit and an easement dedication from adjacent property owner, George E. Scholibo, Jr. (Buster's Barbeque), for the storm drainage improvements within the utility easement on his property. Those improvements connect to the street drainage and should eliminate flooding on properties along Pine Street.

PINE STREET
STREET & STORM DRAINAGE IMPROVEMENTS
69TH AVENUE TO END



Agenda Item #

6.5 c

Meeting Date

September 12, 2006

LOCAL CONTRACT REVIEW BOARD AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Amend the Agreement for Professional Services for 550-Foot Reservoir No. 2

Prepared By: Brian Rager Dept Head Approval:  City Mgr Approval: CR

ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

Shall the Local Contract Review Board approve Amendment No. 2 for Murray Smith and Associates, Inc. (MSA) for professional services related to the 550-Foot Zone Reservoir No. 2 project and authorize the City Manager to execute the amendment?

STAFF RECOMMENDATION

Approve the amendment.

KEY FACTS AND INFORMATION SUMMARY

- Originally, the 550-Foot Zone Reservoir No. 2 project was to be located on the Alberta Rider School property. Ultimately, this was not possible and the Price property was purchased in May, 2006, with the final project scope to include a pocket park and possibly an aquifer storage and recovery (ASR) well.
- Due to modifications resulting from the change in location, the Council approved Amendment No. 1 of the Professional Services contract on February 22, 2005. At that time, reservoir supply and overflow piping was to be routed through the Rider School site and MSA proceeded with design work.
- Recently, staff determined the supply and overflow piping can not be routed through the school site, due to conflicts with the school district's project schedule and because favorable terms for a water line easement could not be reached.
- A second amendment for the professional services is needed for the following reasons:
 - Addition of the pocket park design elements (result of final property negotiations).
 - Revised overflow piping route across the Price site versus the Rider School site.
 - Addition of street design work. The existing scope only addresses design work along the Price reservoir site. Both the Public Works and Engineering staff recognized that if street improvements were to continue from the Price property to the east end of the 10 mg reservoir site, a substantial section of the north half of the roadway could be improved. To capitalize on this opportunity, this amendment incorporates this additional section of roadway into MSA's street design work.

OTHER ALTERNATIVES CONSIDERED

Delay the project to solicit proposals for professional services for the additional work scope. This option is not the preferred choice because MSA already knows the project and the site, and has offered to perform the additional work at 2003 contract rates.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

Urban & Public Services, Water and Stormwater Goal #1, Strategy #3: Build identified water capital improvements.

This reservoir was identified on the Water Distribution System Hydraulic Study System Map, dated May 2000.

ATTACHMENT LIST

1. Proposed Amendment No. 2 to Agreement for Professional Engineering Services for 550 Foot Reservoir

FISCAL NOTES

The cost of Amendment No. 2 is \$116,038. Funding for the professional services is as follows:

| | |
|--------------------------|------------------|
| Original Cost | \$268,355 |
| Amendment No. 1 | \$129,062 |
| Proposed Amendment No. 2 | <u>\$116,038</u> |
| Total Cost | \$513,455 |

| | |
|----------------------|-----------|
| Expenditures To-Date | \$ 99,203 |
| Remaining Cost | \$414,252 |

The FY '06/'07 Water CIP Fund contains \$500,000 for these services; there is ample funding to accommodate the amendment.

**AMENDMENT NO. 2
TO AGREEMENT FOR
PROFESSIONAL ENGINEERING SERVICES
FOR
550 FOOT RESERVOIR
FOR
CITY OF TIGARD, OREGON**

THIS AMENDMENT, dated the _____ day of _____, 2006, modifies the agreement and contract made and entered into at Tigard, Oregon dated May 12, 2003, by and between City of Tigard, hereinafter called the "City", and MURRAY, SMITH & ASSOCIATES, INC. hereinafter called the "Engineer", and provides for engineering services for design, bidding and construction. This amendment is hereby made a part of the above referenced agreement to the same extent as though it was originally included therein.

This amendment modifies the original scope-of-work and the previously executed Amendment No. 1 to address the relocation of the proposed reservoir from the Rider School Site to the Price Property and includes certain additional services. Much of the work identified under Amendment No. 1 was suspended as project progress was halted. As such, Amendment No. 2 work program includes Amendment No. 1 work which will be completed along with additional work included in this Amendment No. 2.

A number of tasks have been revised to reflect additional work associated with design of the reservoir at the new location. Amendment No. 2 work includes extending water piping down SW Bull Mountain Road from the new reservoir site to SW 125th Street and along SW Greenfield Drive, extending reservoir overflow piping east of the Price site to an existing storm drainage pipe, designing a half street improvement on SW Bull Mountain Road, developing a preliminary site layout plan for a future Aquifer Storage and Recovery (ASR) well and adding design work for a park on top of the reservoir.

The agreement is hereby amended as follows:

On page 1 of the Agreement, in Item No. 3, Engineer's Fee, **REMOVE** the last sentence and **REPLACE** with the following:

"The Basic Fee shall not exceed the amount of **five hundred thirteen thousand, four hundred fifty five** dollars \$513,455 without prior written authorization. This total is based on the following: The original budget to design the reservoir in the south east corner of the Rider School Site is \$268,355 and the additional budget for Amendment No. 1 is \$129,062. Of the previously approved total budget of \$397,417, \$99,203 has been spent through June 2005 at which point work was temporarily halted. Amendment No. 2 is intended to update the budget to reflect design of the reservoir at the new location and to reflect completed work at the original site, alternatives analyses associated with the Price property site and to add fees required to complete design of the reservoir at the Price property site. The budget

adjustment requested for Amendment No. 2 to complete designs of the reservoir at the Price site is \$116,038.

Revised Work Plan

A detailed description of the revised work plan is presented below and reflects specific changes to Amendment No. 1 and additional language of Amendment No. 2 to achieve an updated and current work plan. For clarity purposes, Amendment No. 1 changes are presented first followed by Amendment No. 2 changes, many of which delete, modify or add to the previously approved Amendment No. 1 changes.

In Exhibit 1, Work Plan, is amended as follows:

Item No. 1 – Task A Preliminary Design

Amendment No. 1 – On page 1, after the second sentence of paragraph 1, **ADD** the words “The revised predesign will include predesign layout of the reservoir at the Price property site and will address hydraulic interests relative to the overflow elevation for the reservoir”.

Amendment No. 2 – Following the above sentence **ADD** the following: “Predesigns will also include preliminary analysis and drawings of the water piping along SW Bull Mountain Road and SW Greenfield Drive and preliminary site layout drawings for the park, future ASR well, drainage piping and half street improvement along SW Bull Mountain Road.”

Item No. 2 – Task B Conditional Use Permit Application

Amendment No. 1 – On page 3, **REMOVE** the first paragraph and **REPLACE** with the following:

“Under this task, assistance with obtaining a conditional use permit for the project from the City of Tigard will be provided. The Engineer will represent and assist the City with the preparation and submittal of a conditional use permit application and supporting documentation such as renderings, maps and other such documents. It is currently anticipated that this application will be a quasi-judicial Type III application to the City of Tigard requiring a public hearing process.

The Engineer will assist the City during the application processing and assist with presentations to City staff, City Planning Commission and City Council, if necessary. The Engineer will coordinate its work with the City staff and City legal counsel. It is assumed that this process will not be a contested one”.

Amendment No. 2 – Following the above paragraphs, **ADD** the following:

“Included in the conditional use permit application will be assisting the landscape architect (hired by the City) with development of a site plan and an elevation view rendering of the proposed park facilities.

It is anticipated that the City will conduct a Phase 1 Environmental review for the reservoir site.”

Item No. 3 – Task C Geotechnical Investigations

Amendment No. 1 – On page 4, in the first sentence of paragraph numbered 1), **REMOVE** the words “Drill two borings within the footprint of the proposed reservoir” and **REPLACE** with the following sentence “Drill three borings within the footprint of the proposed reservoir”.

Amendment No. 2 – After the above revised sentence **ADD** the following: “Two additional bore holes will be included for the water and overflow piping on the project. These will be drilled in the alignment of the respective pipelines to a depth of about 25 feet and are considered optional work with final determination to proceed following predesign of the pipeline alignments.”

Item No. 4 – Task D Public Meetings and Presentations

Amendment No. 1 – This task will remain as shown in the original scope.

Amendment No. 2 – On page 6, after the paragraph under Item 4 **ADD** the following: “Two additional meetings be included to address park facility interests on the tank site.”

Item No. 5 – Task E Final Design Services

Amendment No. 1 – On page 6, **DELETE** all of the bulleted items and **REPLACE** them with the following:

- “Reservoir designs assume a fully buried prestressed concrete reservoir designed and constructed in accordance with AWWA D110 standards.
- Reservoir top treatment surface feature designs and final site improvement engineering will be completed as part of this project.
- Reservoir related drainage designs will be coordinated with School District site development designs. Reservoir drainage facility designs assume connection to existing storm drainage system located east of the Rider School Site.
- Project designs assume that transmission piping will extend south from the Price site, adjacent to the Rider School property and extend east from Rider School site where connection will be made to the transmission piping improvements completed by the developer that is developing a subdivision in this area. The piping depth ranges from minimum cover to approximately 20 feet deep. It is assumed that the entire pipe

length will be constructed using open trench methods. The length of the pipe is approximately 1,200 linear feet.

- Basic electrical features are included in project designs. Telemetry designs will be coordinated with the City's systems integrator.
- Access road and parking facility final designs will be designed on the Price site for the new reservoir.
- The half street improvements along the proposed reservoir site on Bull Mountain Road will be designed as part of this project.
- Reservoir overflow piping will extend north from the reservoir and be installed through easements on private property and to a natural drainage way. Length of the pipe is approximately 1,300 linear feet."

Amendment No. 2 – DELETE the above listed items from Amendment No. 1 and ***REPLACE*** with the following:

- "Reservoir designs assume a fully buried prestressed concrete reservoir designed and constructed in accordance with AWWA D110 standards.
- Reservoir top treatment surface feature designs and final site improvement engineering will be completed as part of this project.
- The length of the half street improvement on SW Bull Mountain Road will be designed as part of this project and be approximately 2100 linear feet extending from west of the private road west of the reservoir site east to the easterly property line of the existing 10 mg reservoir site. Half street improvements will include an intersection design and realignment of the private drive west of the reservoir site.
- The reservoir drain will connect with the reservoir overflow pipe which will be routed to the east of the reservoir site to an existing storm drainage pipe. It is anticipated that the existing storm drain line will be used in its current configuration with no modifications.
- The water transmission line will extend east approximately 1,650 linear feet along SW Bull Mountain Road to SW 125th Avenue near the existing 10 MG reservoir.
- The water transmission line will extend south from SW Bull Mountain Road along SW Greenfield Drive approximately 600 linear feet.
- Designs will include a preliminary site layout for future ASR facilities to coordinate reservoir design with such facilities.
- MSA will prepare complete reservoir structural designs including final drawings, specifications and calculations."
- Basic electrical features are included in project designs. Telemetry designs will be coordinated with the City's systems integrator.
- Access road and parking facility final designs will be designed on the Price property site for the new reservoir.

Item No. 6 – Task F Permits, Approvals and Property Acquisition

Amendment No. 1 – On page 8, to the end of the paragraph numbered "2)" ***ADD*** the following:

“Approximately three easements will be prepared for the overflow line extending north from the reservoir and three easements will be prepared for the waterline extending south along the Rider School Site.”

Amendment No. 2 – **DELETE** the above sentence and **ADD** the following:

“It is anticipated that one easement will be prepared for access to the site from an existing private road west of the site.”

Item No. 7 – Task G Assistance During Bidding

This task will remain as shown in the original scope.

Item No. 8 – Task H Engineering Services During Construction

Amendment No. 1 – On page 10, **ADD** at the end of the first sentence in the first paragraph the following:

“Additional engineering related efforts during construction of the reservoir at the Price site include construction observation and management for the longer water and overflow piping and the required half street improvement on SW Bull Mountain Road.

Amendment No. 2 – **DELETE** the above sentence and **ADD** the following:

“Additional engineering related to services during construction of the reservoir at the Price property site include construction observation and management for the longer waterline, the required half street improvement on SW Bull Mountain Road, the park improvements on the site and the storm drainage.”

Item No. 9 – Task I Design and Construction Surveys

Amendment No. 1 – On page 12, **REMOVE** the first paragraph and **REPLACE** with the following:

“Under this task, design surveys will be performed to provide the topographic and other information necessary to complete project designs. Topographic surveys will be conducted for the Price site and the overflow piping extending north of the Price site. Surveys provided by the school and various developers will be used for the off-site water piping. Construction surveys will be completed only to the extent necessary to set an elevation reference point and base line for the contractor to completed detailed surveys.”

Amendment No. 2 – **DELETE** the above sentence and **REPLACE** with the following:

“Under this task, design surveys will be performed to provide the topographic and other information necessary to complete project designs. Topographic surveys will be conducted for the Price property site, the overflow piping extending east of the Price property site and the waterline and half-street improvements in SW Bull Mountain Road. It is anticipated that a boundary survey for the Price property site has been completed by others and local survey

control data will be available from the surveys recently conducted at the Rider School site. Construction surveys will be completed only to the extent necessary to set an elevation reference point and base line for the contractor to complete detailed surveys.”

Item No. 13 – Task J Project Partnering

This task will remain as shown in the original scope.

Revised Schedule

A revised schedule is attached.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed in duplicate by their respective authorized officers or representatives.

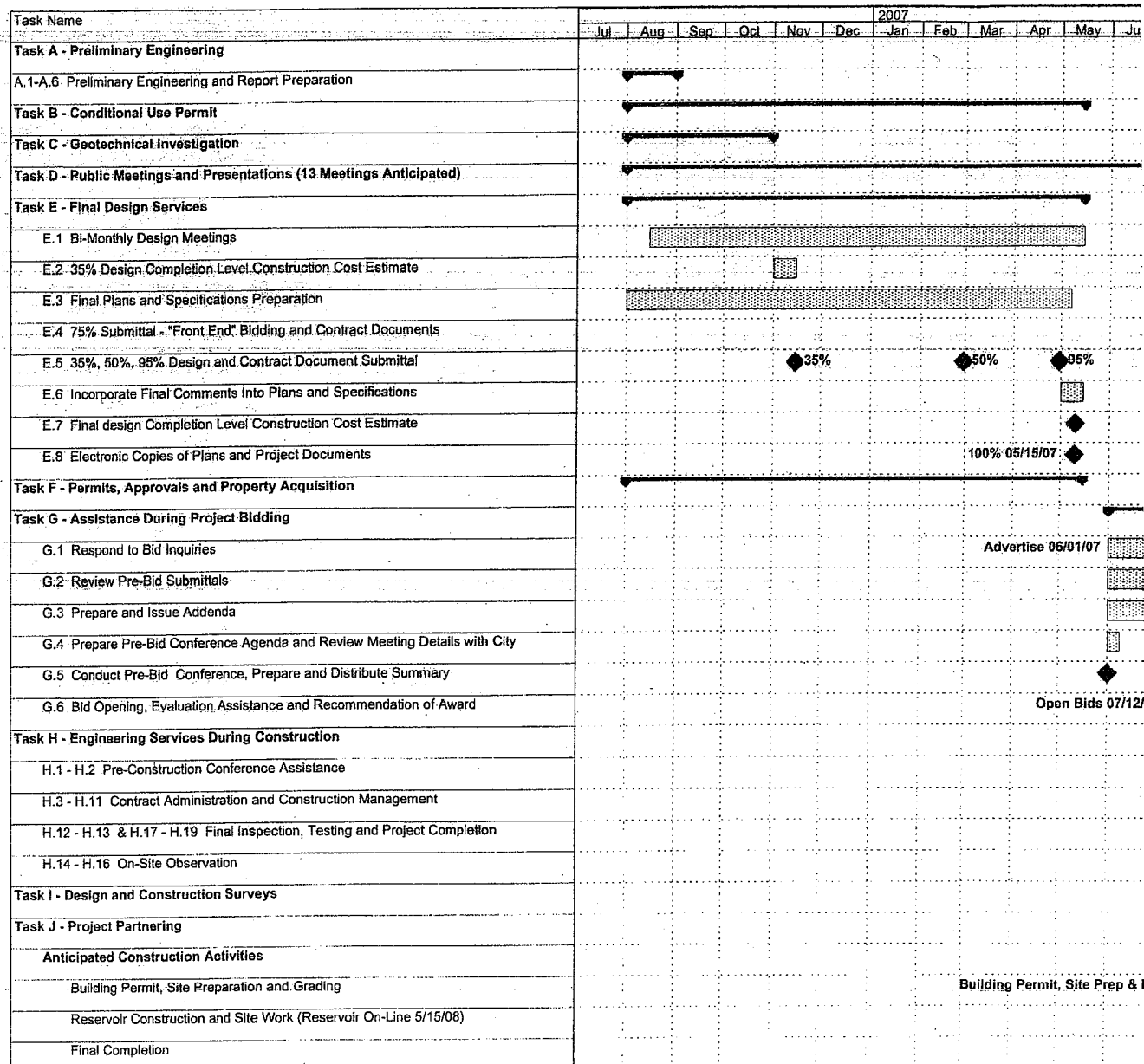
City of Tigard

By: _____
<Client Representative, Title>

MURRAY, SMITH & ASSOCIATES, INC.

By: _____
Philip H. Smith, President

**PROPOSED PROJECT SCHEDULE
CITY OF TIGARD
ENGINEERING SERVICES
DESIGN OF 550-FOOT SERVICE ZONE RESERVOIR NO. 2**



Agenda Item #

6.5d.

Meeting Date

September 12, 2006

LOCAL CONTRACT REVIEW BOARD AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Purchase of Seven Police Patrol Cars

Prepared By: Dennis Koellermeier

Dept Head Approval:

DK
CW

City Mgr Approval:

CR

ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

Shall the LCRB authorize the purchase of seven police patrol cars?

STAFF RECOMMENDATION

Authorize the purchase.

KEY FACTS AND INFORMATION SUMMARY

- For operational and financial reasons, the City follows a police vehicle replacement schedule based on industry standards for vehicle length of service, maintenance costs and officer safety.
- Due to budget constraints, the scheduled replacement of police vehicles has fallen behind, resulting in a higher incidence of out-of-service vehicles and higher maintenance costs.
- With the purchase of these seven patrol cars, the vehicle replacement schedule will be current.
- All patrol cars due for replacement are six to eight years old and have over 100,000 miles.
- The City is eligible to purchase the patrol cars through the State of Oregon Contract, thus assuring a competitive price and saving the City the cost and time of preparing a solicitation. The cars will be purchased from Gresham Ford.

OTHER ALTERNATIVES CONSIDERED

The LCRB could decide not to authorize the purchase of the police cars.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

Not applicable.

ATTACHMENT LIST

None.

FISCAL NOTES

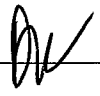

The cost of each patrol car is \$23,854; the cost of all seven cars totals \$166,978. The FY '06/'07 budget contains \$175,000 for this purchase.

FISCAL NOTES

The cost of each patrol car is \$23,854; the cost of all seven cars totals \$166,978. The FY '06/'07 budget contains \$175,000 for this purchase.

COUNCIL AGENDA ITEM SUMMARY
City Of Tigard, Oregon

Issue/Agenda Title Heritage Tree Nominations

Prepared By: Dennis Koellermeier Dept Head Okay  City Mgr Okay 

ISSUE BEFORE THE COUNCIL AND KEY FACTS

Should the Council award Heritage Tree designation to two trees?

STAFF RECOMMENDATION

Award the Heritage Tree designations.

KEY FACTS AND INFORMATION SUMMARY

- In November of 2005, the Tigard City Council established the City's Heritage Tree Program.
- This program was developed by the Tigard Tree Board as a method to identify and raise public awareness of rare/exceptional trees due to their age, size, species, horticultural quality or historical importance.
- The following Heritage Tree nomination forms were submitted by Tigard property owners. The nominations are as follows:

| |
|--|
| Douglas fir Located at 8275 SW Ross Street in Tigard |
| The tree: <ul style="list-style-type: none">- Is estimated to be at least 150 years old.- Has a unique shape and atypical form.- Provides valuable shade.- Is an all-around important tree in the City of Tigard. |

| |
|---|
| Monkey puzzle tree Located at 14530 SW 103 rd in Tigard |
| The tree: <ul style="list-style-type: none">- Is the oldest known monkey puzzle tree in Tigard.- Is close to the maximum height for a monkey puzzle tree grown in the urban environment. |

- At its May 8, 2006, meeting, the Tree Board unanimously voted to forward these two Heritage Tree nominations to the City Council.
- The final step in the process is for the Council to take action on the Heritage Tree designations.
- These are the first nominations the Council has been asked to consider since the Heritage Tree Program was created in December, 2005.

OTHER ALTERNATIVES CONSIDERED

The City Council could choose not to approve the Heritage Tree designation for these two trees.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

Tigard Beyond Tomorrow, Growth and Growth Management

Goal #1 – “Growth will be managed to protect the character and livability of established areas, protect the natural environment and provide open space throughout the community.”

Strategy #1 – “Review and modify development code sections to integrate open space preservation and protection into design standards.”

ATTACHMENT LIST

1. May 8, 2006, Tree Board Minutes
2. Memo from Matt Stine to Dan Plaza dated August 9, 2006
3. Douglas fir evaluation elements
 - a. Nomination form
 - b. Urban Forester's Review
 - c. Photos
4. Monkey puzzle tree evaluation elements
 - a. Nomination form
 - b. Urban Forester's Review
 - c. Photos

FISCAL NOTES

Depending upon the health and maintenance requirements of each tree, Heritage Tree Program funds may be spent on pruning, soil treatments, etc. The plaque, designating each tree as a Heritage Tree, is expected to cost \$100. Annually, the City anticipates spending no more than \$2,000 on the Heritage Tree Program; these funds will come from the FY '06/'07 park operations budget.

TREE BOARD

Minutes of May 8, 2006 meeting

Members present Mrs. Gillis, Mr. Callan, Mr. Cancelosi, Mr. DeSelle, Mr. Tycker, Ms. Hagan, Mr. Sizemore

Staff present Matt Stine

1. Meeting was called to order at 6:35 P.M.
2. Minutes of March and April 2006 meetings approved.
3. City updates
 - a. SOLV's Down by the Riverside volunteer event will be held on Saturday, May 20, 2006 at Cook Park. Invasive plant removal and native plant mulching will be the events in Tigard
 - b. Subdivision issue updates – Gage, Brentwood, Sunrise Lane, and Arlington Heights.
4. Heritage Tree application forms review
 - a. Monkey puzzle tree – approved for submission to City Council
 - b. Douglas fir at the Mangold's – approved for submission to City Council.
5. Costco parking lot. Discussed plan for approaching the management staff at the store. Also talked about how the plan for replanting the parking lot will be executed, including who the partners will be.
6. Tree of the Year Program – put on hold until Heritage Tree Program gets further along, and the Board wants to work on other projects first.
7. Agenda for June, 2006
 - a. City updates
 - b. Costco parking lot
 - c. Heritage Trees – members bring nominations of their own

Adjourned 8:00 PM



MEMORANDUM

TO: Dan Plaza

FROM: Matt Stine

RE: Heritage Tree nominations

DATE: August 9, 2006

The Tree Board has approved two nominations from Tigard citizens for Heritage Tree designation. Please review the descriptions that are below. I will be submitting an Agenda Item Summary form for City Council to approve the nominations for your review.

Douglas fir tree located at 8275 SW Ross Street. In my opinion this tree does qualify as a Heritage Tree according to the guidelines written into the program's description. It possesses all of the required criteria except for the species, which is not unique to this area. It demonstrates significant landmark importance since has a strong connection to Tigard's history. I estimate the age to be at least 150 years old. Despite its unique shape and atypical form it is a beautiful tree, provides valuable shade and is an all-around important tree in the City of Tigard. I strongly suggest that we designate this Douglas fir as a Heritage Tree in the City of Tigard.

A Monkey Puzzle Tree located at 14530 SW 103rd Avenue. In my opinion this tree does qualify as a Heritage Tree according to the "history" and "kind" of tree that it is. It possesses all of the required criteria except for the shade. It demonstrates landmark importance since it was planted so long ago, and is the oldest known monkey puzzle tree in Tigard. The height of the tree is close to the maximum size for monkey puzzle trees growing in the urban environment. The tree can, however, reach 135 feet in its native range in South America. I suggest that you seriously consider designating this tree as a Heritage Tree in the City of Tigard.

City of Tigard

HERITAGE TREE NOMINATION FORM

(Please supply as much information as you can)

NEIGHBORHOOD: **Good Acres** _____

Person noticing the tree:

Property Owner (if other than reporter):

Steve & Debbie Mangold _____
Name

Name

8275 SW Ross Street _____
Address

Address

Tigard, OR 97224 _____

(503) 620-7331 _____
Phone (day) (eve)

Phone (day) (eve)

TREE DESCRIPTION

1) Location (street address): **8275 SW Ross Street** _____

2) Private Property ☒ **X** _____ Public Property (park, parking strip, median, etc.) _____

3) Single Tree ☒ **X** _____ More than one (give number) _____

4) Species or variety (botanic or common name): **Douglas fir** _____

5) Historical Facts: **Older than the 100-year old home the Mangolds live in.** _____

6) Height (approx): **120** ft. Crown (measure from one edge to opposite edge): **Approx. 80** ft.

7) Approximate Age: **150** years

8) Condition: Healthy ☒ **X** _____ Pruning Problem: _____

9) Noteworthy Features:

Beauty ☒ **X** _____ Shade ☒ **X** _____ Size ☒ **X** _____ Kind _____ History ☒ **X** _____

"Allowing the annual loss of canopy cover in the urban forest to continue will mean an irretrievable loss. At current rates of tree mortality, over one-half the existing canopy cover could be gone in 30 years." *National Arborist Association*

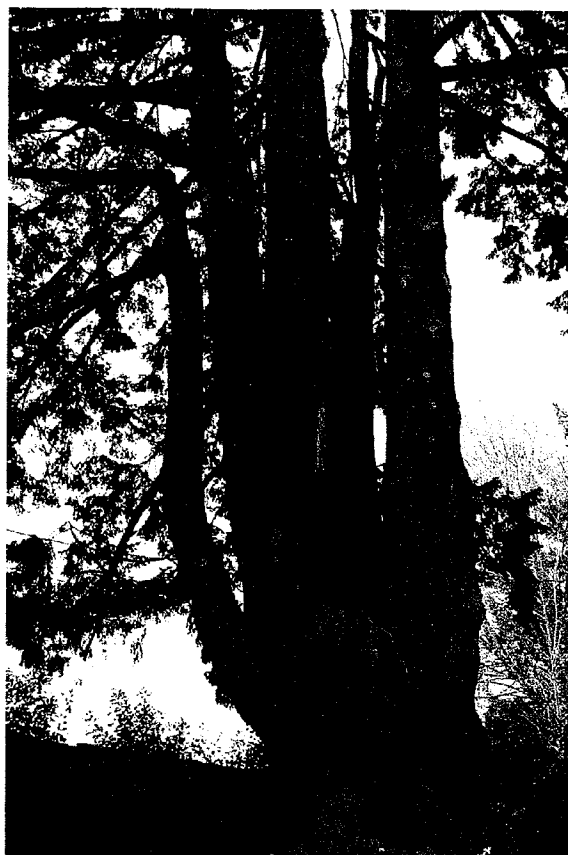
(Please Include Photo)

Mail to: City of Tigard
Attn: City Forester
13125 SW Hall Blvd.
Tigard, OR 97223



In my opinion this tree does qualify as a Heritage Tree according to the guidelines written into the program's description. It possesses all of the required criteria except for the species, which is not unique to this area. It demonstrates significant landmark importance since has a strong connection to Tigard's history. I estimate the age to be at least 150 years old. Despite its unique shape and atypical form it is a beautiful tree, provides valuable shade and is an all-around important tree in the City of Tigard. I strongly suggest that we designate this Douglas fir as a Heritage Tree in the City of Tigard.

Matt Stine
Tigard Urban Forester





Kodak EasyShare
software

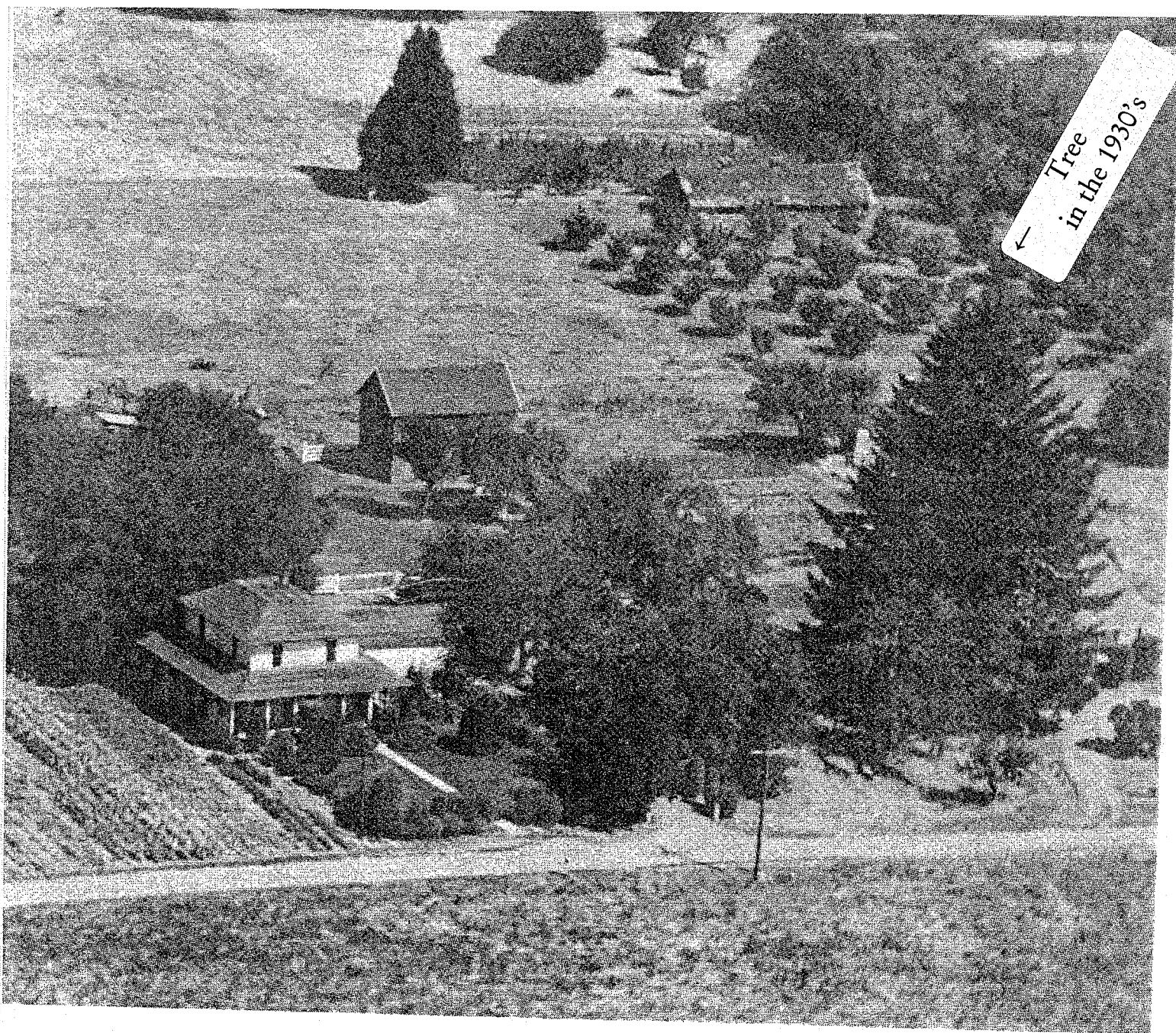
Organize, print and share your digital photos.

[Click here to get the software.](#)

How to save a picture

Simply right click on it and select "save image as." Mac users, click and drag the image to your desktop.

Copyright © Eastman Kodak Company, 2005



Aerial view of the Schmidt family home.

City of Tigard

HERITAGE TREE NOMINATION FORM

(Please supply as much information as you can)

NEIGHBORHOOD: **Canterbury Hills** _____

Person noticing the tree:

Property Owner (if other than reporter):

Gay Fantz _____
Name

Name

14530 SW 103rd _____
Address

Address

Tigard, OR 97224 _____

(503) 620-9576 _____
Phone (day) (eve)

Phone (day) (eve)

TREE DESCRIPTION

1) Location (street address): **14530 SW 103rd** _____

2) Private Property ☒ Public Property (park, parking strip, median, etc.) _____

3) Single Tree ☒ More than one (give number) _____

4) Species or variety (botanic or common name): **Monkey puzzle tree (*Araucaria araucana*)** _____

5) Historical Facts: **At least 80 years old.** _____

6) Height (approx): **60** ft. Crown (measure from one edge to opposite edge): **Approx. 35ft.**

7) Approximate Age: **80+** years

8) Condition: Healthy ☒ Pruning Problem: _____

9) Noteworthy Features:

Beauty ☒ Shade _____ Size ☒ Kind ☒ History ☒

"Allowing the annual loss of canopy cover in the urban forest to continue will mean an irretrievable loss. At current rates of tree mortality, over one-half the existing canopy cover could be gone in 30 years." *National Arborist Association*

(Please Include Photo)

Mail to: City of Tigard
Attn: City Forester
13125 SW Hall Blvd.
Tigard, OR 97223



In my opinion this tree does qualify as a Heritage Tree according to the "history" and "kind" of tree that it is. It possesses all of the required criteria except for the shade. It demonstrates landmark importance since it was planted so long ago, and is the oldest known monkey puzzle tree in Tigard. The height of the tree is close to the maximum size for monkey puzzle trees growing in the urban environment. The tree can, however, reach 135 feet in its native range in South America. I suggest that you seriously consider designating this tree as a Heritage Tree in the City of Tigard.

Matt Stine
Tigard Urban Forester









Agenda Item #
Meeting Date

8
September 12, 2006

COUNCIL AGENDA ITEM SUMMARY
City Of Tigard, Oregon

Issue/Agenda Title Acceptance of \$150,000 in Matching Funds to Construct the Jim Griffith Memorial Skate Park

Prepared By: Dennis Koellermeier Dept Head Approval:  City Mgr Approval: 

ISSUE BEFORE THE COUNCIL

Shall the City Council approve a resolution accepting the grant funds?

STAFF RECOMMENDATION

Adopt the resolution.

KEY FACTS AND INFORMATION SUMMARY

- On March 28, 2006, the City Council authorized the City Manager to apply for an Oregon Parks and Recreation Department (OPRD) State of Oregon Lottery Local Government Grant.
- Grant funds were requested to assist with the construction of the Jim Griffith Memorial Skate Park.
- The City was recently notified that the grant was awarded, providing \$150,000 in matching funds for skate park construction.
- It is anticipated that construction of the skate park will begin this fall/winter and the project could be completed as early as spring 2007.

OTHER ALTERNATIVES CONSIDERED

None.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

Tigard Beyond Tomorrow, Urban & Public Services

Recreation Goal #1 – “Partnerships will provide a wide range of leisure and recreation opportunities that are coordinated and available for the Tigard community.”

The estimated cost of the skate park is \$426,300. The City originally budgeted \$335,502 from the Park SDC fund, \$50,798 from the General Fund and \$40,000 in donations to finance the park. Since this time, donations have increased. If the Council accepts the grant, Park SDC funding will be reduced by \$109,202 and no general fund monies will be used. Funding will be as follows:

| | |
|-----------|-----------|
| Park SDCs | \$226,300 |
| Donations | \$ 50,000 |
| Grant | \$150,000 |
| Total | \$426,300 |

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 06-_____

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A \$150,000 STATE OF OREGON LOTTERY LOCAL GOVERNMENT GRANT TO BE USED FOR THE CONSTRUCTION OF THE JIM GRIFFITH MEMORIAL SKATE PARK

WHEREAS, the Oregon Park and Recreation Department has funding available through the State of Oregon Lottery Local Government Grant Program for projects such as the construction of the Jim Griffith Memorial Skate Park; and

WHEREAS, the City of Tigard desires to participate in this State Lottery Program in order to receive \$150,000 in matching funds for the skate park construction; and

WHEREAS, with \$150,000 in grant funding, the City of Tigard's share of the project's cost is estimated to be \$226,300 in Park System Development Charges; and

WHEREAS, the City of Tigard Skate Park Task Force has raised money and will make a significant financial contribution to the project; and

WHEREAS, the skate park project is identified in the adopted Tigard Park System Master Plan; and

WHEREAS, Tigard supports its youth and believes in providing opportunities for young people to be engaged in constructive activities; and

WHEREAS, the Jim Griffith Memorial Skate Park would provide such an opportunity for Tigard youth.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1. The Tigard City Council authorizes the City Manager to accept a State of Oregon Lottery Local Government Grant awarded to the City of Tigard to construct the Jim Griffith Memorial Skate Park.

SECTION 2. This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2006.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

Agenda Item #
Meeting Date

9
September 12, 2006

COUNCIL AGENDA ITEM SUMMARY
City Of Tigard, Oregon

Issue/Agenda Title City Council Consideration of Writ of Mandamus Concerning 120-day Expiration

Prepared By: Dick Bewersdorff Dept Head Approval: TC/jll City Mgr Approval: cl

ISSUE BEFORE THE COUNCIL

Should the City Council approve a motion to approve the staff decision approving the Longstaff Condominium project in light of the filing of a Writ of Mandamus?

STAFF RECOMMENDATION

As advised by the City Attorney's office, adopt a motion to approve the staff decision including all conditions of approval for the Longstaff Condominiums (SDR2005-00011).

KEY FACTS AND INFORMATION SUMMARY

A staff decision approving the Longstaff Condominium project was issued on 6-20-06. This project is 43 unit attached residential condominium project on 95th Avenue and adjacent to Highway 217. An appeal was filed on 7-6-06, the 120-day deadline. An appeal hearing had been scheduled for August 28, 2006. A Writ of Mandamus was filed on August 24, 2006 in the Washington County Circuit Court. The writ asks the Court to approve the project application subject to the conditions of the City approval, to refund application fees or 50% of the total of such fees, whichever is greater, to pay the applicant's attorney's fees, costs and disbursements, and to grant relief as the Court may deem equitable.

OTHER ALTERNATIVES CONSIDERED

Direct the City Attorney to contest the Writ in Circuit Court on the grounds that the applicant submitted additional materials justifying the application on 5-10-06 and should have granted an additional extension to the 120-day limit as requested by staff.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

Not applicable.

ATTACHMENT LIST

1. Writ document.
2. Chronology of Longstaff Review

FISCAL NOTES

Costs are estimated at one-half fees, which equals \$3738.75, plus attorneys fees and costs.

Attachment 1

PORTLAND OFFICE

eleventh floor

121 sw morrison street

portland, oregon 97204-3141

TEL 503 228 3939 FAX 503 226 0259

beijing, china

new york, new york

seattle, washington

washington, d.c.

GSBLAW.COM

GARVEY SCHUBERT BARER

LAW FIRM, P.C. A PROFESSIONAL CORPORATION

Please reply to ADAM R. KELLY
akelly@gsblaw.com TEL EXT 3203

August 23, 2006

VIA FACSIMILE

Gary Firestone
Ramis Crew Corrigan & Bachrach, LLP
1727 NW Hoyt Street
Portland, OR 97209

**Re: *Palmer & Associates v. City of Tigard*
Petition for Writ of Mandamus**

Dear Mr. Firestone:

Enclosed are copies of Palmer & Associates' Petition for Alternative Writ of Mandamus, [Proposed] Order Allowing Petition for Writ of Alternative Mandamus and Alternative Writ of Mandamus. I will be filing these documents with the Washington County Court tomorrow morning, August 24, 2006, at ex parte.

Thank you.

Sincerely,

GARVEY SCHUBERT BARER

By


Adam R. Kelly

Enclosures

c: Client
Ed Sullivan

PDX_DOCS:378137.1 [36248-00200]

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7 IN THE CIRCUIT COURT OF THE STATE OF OREGON
8 FOR THE COUNTY OF WASHINGTON

9 PALMER & ASSOCIATES,

10 Relator,

11 v.

12 CITY OF TIGARD, a municipal corporation of
13 the State of Oregon,

14 Defendant.

Case No.

PETITION FOR ALTERNATIVE WRIT OF
MANDAMUS

15
16 Relator Palmer & Associates (hereinafter "Relator"), on behalf of the owner David Abrams,
17 who is the party beneficially interested, hereby alleges:

18 1.

19 Relator is seeking to develop a 43-unit attached residential development on 4.98 acre parcel of
20 real property located at 10890 SW 95th Avenue, located within the City of Tigard, Oregon.

21 2.

22 David Abrams is the owner of the real property located at 10890 SW 95th Avenue, located in
23 the City of Tigard, Oregon.

24 3.

25 Defendant City of Tigard (hereinafter the "City") is a municipal corporation organized and
26 existing under the laws of the State of Oregon with principal offices located at 13125 SW Hall

1 Boulevard, Tigard, OR 97223-8189 and has jurisdiction over the land use decision described in this
2 petition.

3 4.

4 On September 13, 2005, Relator filed an application with Defendant seeking to develop a 43-
5 unit attached residential development on 4.98 acre parcel of land described in Paragraph 1 of this
6 Petition.

7 5.

8 Defendant deemed the application complete on February 6, 2006 as demonstrated by the letter
9 from Gary Pagenstecher to Jerry Palmer, which is attached as Exhibit "A" to this Petition.

10 6.

11 The application was approved by Defendant's Director of Community Development on June
12 20, 2006, subject to several conditions of approval. The land use decision, including findings and
13 conditions of approval, is attached as Exhibit "B" to this Petition. Relator is amenable to these
14 conditions.

15 7.

16 On July 6, 2006, an appeal was filed challenging the Defendant's approval described in
17 Paragraph 6. No hearing has been held regarding the appeal and no final decision has been made by
18 the City.

19 8.

20 Pursuant to ORS 227.179(1), if the governing body of the City does not take final action on an
21 application for a limited land use decision or permit within 120 days after the application is deemed
22 complete, the applicant therefor may apply in the Circuit Court of the county where the application
23 was filed for a writ of mandamus to compel the governing body to issue the approval. Relator's
24 application seeking to develop a 43-unit attached residential development on 4.98 acre parcel of land
25 is a land use permit application, which is subject to ORS 227.179(1).
26

1 9.

2 The 120-day period expired on June 6, 2006. Relator has not requested an extension of the
3 120-day period and this application is not subject to any of the exceptions provided by ORS
4 227.178(5) and (6). The City has not taken final action on Relator's application to this date, and
5 Relator is entitled to the issuance of a writ of mandamus pursuant to ORS 227.179(1), compelling the
6 City to approve Relator's application.

7 10.

8 Because approval of the application would not violate a substantive provision of the City's
9 comprehensive plan or land use regulations as defined in ORS 197.015, Relator is entitled to approval
10 pursuant to ORS 227.179(5).

11 11.

12 Pursuant to ORS 227.178(8), Relator is entitled to a refund of either the unexpended portion
13 of the application fees or deposits previously paid by the Relator or 50% of the total amount of such
14 fees or deposits, whichever is greater.

15 12.

16 Pursuant to ORS 34.210(2), Relator is entitled to recover its attorneys' fees, costs and
17 disbursements incurred herein.

18 13.

19 Relator has no plain, speedy, and adequate remedy in the ordinary course of law.

20 WHEREFORE, Relator petitions the Court to issue its writ directed to Defendant and
21 commanding as follows:

- 22 1. Immediately after receiving the writ to approve Relator's application, subject to the
23 conditions set forth in Exhibit "B;" or in the alternative,
24 2. To appear before this Court or a Judge hereof, at a specified time and place, to show
25 cause why it has not done as commanded; and further,
26

1 3. To return the writ then and there, with its Certificate annexed, showing that it has done
2 as commanded or showing cause for its omission to do so;

3 4. To refund to Relator either the unexpended portion of the application fees or deposits
4 previously paid by Relator or 50% of the total amount of such fees or deposits, whichever is greater;

5 5. To pay Relator's attorney fees, costs, and disbursements incurred herein; and

6 6. To grant such relief as the Court may deem equitable in the premises.

7 DATED this 23rd day of August, 2006.

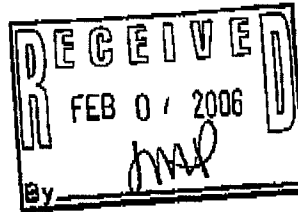
8 GARVEY SCHUBERT BARER

9
10 By 

11 Carrie A. Richter, OSB #00370
12 Edward J. Sullivan, OSB #69167
13 Adam R. Kelly, OSB #02343
14 Attorneys for Relator
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Alpha's file

February 6, 2006



Jerry Palmer
Palmer & Associates
9600 SW Oak Street #230
Portland, OR 97223

RE: Completeness Review for Longstaff (SDR2005-00011)

Dear Mr. Palmer:

The City of Tigard received your supplemental application materials for site development review on February 1, 2006 for the proposed 43-unit attached residential condominium project located on property bounded by SW 95th Avenue and Hwy 217 on tax lots 00100, 2401, 2500, 4600, and 4700 on Tax Map 1S135AC. Staff has completed a preliminary review of the submittal materials and has determined that the application can now be deemed complete. Staff will now issue a request for comments and begin the development review process, which may take approximately eight weeks.

If you have any questions regarding this letter or your application, please don't hesitate to contact me at 503-718-2434.

Sincerely,

A handwritten signature in cursive script that reads "Gary Pagenstecher".

Gary Pagenstecher
Associate Planner

C: SDR2005-00015 Land Use File

Exhibit A
Page 1 of 1

CONDITIONS OF APPROVAL**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO THE ISSUANCE OF SITE PERMITS:**

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the CURRENT PLANNING DIVISION, ATTN: Gary Pagenstecher 505-639-4171, EXT 2434. The cover letter shall clearly identify where in the submittal the required information is found:

1. Prior to issuance of site permits, the applicant shall submit a revised site plan showing a 10-foot side yard setback from the property line abutting Highway 217 to the eastern most unit.
2. Prior to the issuance of site permits, the applicant shall submit a letter from Tualatin Valley Fire & Rescue (TVF&R) demonstrating that the Uniform Fire Code standards as contained in TVF&R's comment letter have been met.
3. Prior to the issuance of site permits, the applicant shall revise their landscape plan to include street trees as approved by the City Forester at the proper spacing along A Street in accordance with Section 18.745.040.C.
4. Prior to the issuance of site permits, the applicant shall revise their landscape plan to include a 4-foot hedge along the subject site's boundary with Tax Lot 1700, consistent with the standards in 18.745.2.
5. Prior to site work, the applicant shall submit revised site plans that show two (2) ADA compliant spaces.
6. Prior to site work, the applicant shall submit revised site plans that show three (3) additional bicycle parking spaces located at the guest parking areas and a detail of the bike rack to be used.
7. Prior to site work, the applicant shall submit a revised site plan showing wheel stops in proposed parking spaces.
8. Prior to any site work the applicant shall install all proposed tree protection fencing. The fencing shall be inspected and approved by the City Forester prior to commencing any site work. The tree protection fencing shall remain in place through the duration of all of the building construction phases, until the Certificate of Occupancy has been approved.
9. Prior to any Certificates of Occupancy, the applicant shall ensure that the Project Arborist has submitted written reports to the City Forester, at least, once every two weeks, from initial tree protection zone (TPZ) fencing installation, through the building construction phases, as he monitors the construction activities and progress. This inspection will be to evaluate the tree protection fencing, determine if the fencing was moved at any point during construction, and determine if any part of the Tree Protection Plan has been violated. These reports must be provided to the City Forester until the time of the issuance of any Certificates of Occupancy. The reports shall include any changes that occurred to the TPZ as well as the condition and location of the tree protection fencing. If the amount of TPZ was reduced then the Project Arborist shall justify why the fencing was moved, and shall certify that the construction activities to the trees did not adversely impact the overall, long-term health and stability of the tree(s).

If the reports are not submitted or received by the City Forester at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan are not being followed by the contractor or a sub-contractor, the City can stop work on the project until an inspection can be done by the City Forester and the Project Arborist. Prior to issuance of any Certificates of Occupancy, the Project Arborist will submit a final certification indicating the elements of the Tree Protection Plan were followed and that all remaining trees on the site are healthy, stable and viable in their modified growing environment.

10. The following text shall be included in all construction documents:

Notwithstanding any other provision of this title, any party found to be in violation of the tree removal chapter (including but not limited to removal or damage to trees not approved for removal) shall be subject to a civil penalty of up to \$500 pursuant to Chapter 1.16 of the Tigard Municipal Code and shall be required to remedy any damage caused by the violation. Such remediation shall include, but not be limited to, the following:

- A. Replacement of unlawfully removed or damaged trees in accordance with Section 18.790.060 (D) of the Tigard Development Code; and
- B. Payment of an additional civil penalty representing the estimated value of any unlawfully removed or damaged tree, as determined using the most current International Society of Arboriculture's Guide for Plant Appraisal.

Only those trees authorized for removal by the City's Casefile No. SDR2005-00011, and any trees that are exempt may be removed by the applicant. If in the process of constructing improvements, it is found that removal of a tree designated for preservation must occur, the applicant will be subject to mitigation for 100% of the caliper inches of that tree. Any trees damaged or removed without prior City authorization will constitute a violation.

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the ENGINEERING DEPARTMENT, ATTN: KIM MCMILLAN 503-639-4171, EXT 2642. The cover letter shall clearly identify where in the submittal the required information is found:

- 11. Prior to issuance of a site permit, a Public Facility Improvement (PFI) permit is required for this project to cover half-street improvements and any other work in the public right-of-way. Six (6) sets of detailed public improvement plans shall be submitted for review to the Engineering Department. NOTE: these plans are in addition to any drawings required by the Building Division and should only include sheets relevant to public improvements. Public Facility Improvement (PFI) permit plans shall conform to City of Tigard Public Improvement Design Standards, which are available at City Hall and the City's web page (www.tigard-or.gov).
- 12. The PFI permit plan submittal shall include the exact legal name, address and telephone number of the individual or corporate entity who will be designated as the "Permittee", and who will provide the financial assurance for the public improvements. For example, specify if the entity is a corporation, limited partnership, LLC, etc. Also specify the state within which the entity is incorporated and provide the name of the corporate contact person. Failure to provide accurate information to the Engineering Department will delay processing of project documents.
- 13. The applicant shall provide a construction vehicle access and parking plan for approval by the City Engineer. The purpose of this plan is for parking and traffic control during the public improvement construction phase.
- 14. Prior to issuance of the site permit, the applicant shall submit a suite layout map to Bethany Stewart, Engineering Department. If the applicant is not sure how many suites will be used, they must estimate a number. The City will then assign suite numbers and the address fee will then be calculated. The fee must be paid by the applicant prior to issuance of the site permit. (STAFF CONTACT: Bethany Stewart, Engineering).
- 15. The applicant shall provide signage at the entrance of each shared flag lot driveway or private street that lists the addresses that are served by the given driveway or street.
- 16. Additional right-of-way shall be dedicated to the Public along the frontage of 95th Avenue to increase the right-of-way to 27 feet from the centerline. The description shall be tied to the existing right-of-way centerline. The dedication document shall be on City forms. Instructions are available from the Engineering Department.

17. The applicant shall submit construction plans to the Engineering Department as a part of the Public Facility Improvement permit, which indicate that they will construct a half-street improvement along the frontage of 95th Avenue. The improvements adjacent to this site shall include:
- A. City standard pavement section for a Neighborhood Route from curb to centerline equal to 16 feet, but in no case shall the total pavement width be less than 24 feet;
 - B. pavement tapers needed to tie the new improvement back into the existing edge of pavement shall be built beyond the site frontage;
 - C. concrete curb, or curb and gutter as needed;
 - D. storm drainage, including any off-site storm drainage necessary to convey surface and/or subsurface runoff;
 - E. 5 foot concrete sidewalk with a 5 foot planter strip;
 - F. street trees in the planter strip spaced per TDC requirements;
 - G. street striping;
 - H. streetlight layout by applicant's engineer, to be approved by City Engineer;
 - I. underground utilities;
 - J. street signs (if applicable);
 - K. driveway apron (if applicable); and
 - L. adjustments in vertical and/or horizontal alignment to construct SW 95th Avenue in a safe manner, as approved by the Engineering Department.
18. A profile of 95th Avenue shall be required, extending 500 feet either side of the subject site showing the existing grade and proposed future grade.
19. The applicant's construction drawings shall show that the proposed public pedestrian access from the development frontage to the Tri-Met bus stop will be a minimum 4 foot concrete sidewalk.
20. The applicant shall provide connection of proposed buildings to the public sanitary sewerage system. A connection permit is required to connect to the existing public sanitary sewer system.
21. The applicant shall provide a 15 foot public sewer easement at the south westerly property boundary. The public sanitary sewer shall be extended to the north side of the wetland buffer, terminating with a manhole.
22. The applicant shall obtain approval from the Tualatin Valley Water District for the proposed water connection prior to issuance of the City's Public Facility Improvement permit.
23. The applicant's engineer shall coordinate that design and construction of the public storm sewer in 95th Avenue and the discharge into Ash Creek with the engineers for the Livingston Lane Subdivision.
24. Final design plans and calculations for the proposed private water quality facility shall be submitted to the Engineering Department (Kim McMullan) as a part of the Public Facility Improvement (PFI) permit plans. The plans shall be revised to provide a Stormwater Management vault, pond or swale. The Stormwater Management manhole will not be allowed.
25. An erosion control plan shall be provided as part of the Public Facility Improvement (PFI) permit drawings. The plan shall conform to the "Erosion Prevention and Sediment Control Design and Planning Manual, February 2003 edition."
26. The applicant shall obtain a 1200-C General Permit issued by the City of Tigard pursuant to ORS 468.740 and the Federal Clean Water Act.
27. The applicant's engineer shall submit a tree removal plan to meet sight distance requirements to the north. Any trees removed pursuant to the tree removal plan shall comply with the standards of Section 18.790.050 for tree removal on sensitive lands, including submittal of tree removal permits.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO ISSUANCE OF THE BUILDING PERMIT:**

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the CURRENT PLANNING DIVISION, ATTN: Gary Pagenstecher 503-639-4171 EXT 2434. The cover letter shall clearly identify where in the submittal the required information is found:

28. Prior to the issuance of building permits, the applicant shall submit a site plan illustrating the locations of all service facilities and demonstrate compliance with the screening standards of Chapter 18.745 of the Tigard Development Code (TDC).
29. Prior to the issuance of building permits, the applicant shall submit verification from the franchise waste hauler indicating that the location of the proposed trash enclosures meets their requirements.
30. Prior to the issuance of building permits, the applicant shall submit for review and approval, copies of CC&R or deed language restricting parking on the internal street or in front of units (to be specified) with less than 18.5 feet of setback distance from the internal driveway. The language shall also note that parking in violation of this restriction is considered a violation of the land use approval subject to civil court citation, in addition to any other remedies provided by law. No parking signs shall also be posted on both sides of the internal driveway.
31. Prior to the issuance of building permits, the developer shall sign a copy of the City's sign compliance agreement.
32. Prior to issuance of building permits, the applicant shall submit site plan drawings indicating the location of the trees that were preserved on the lot during site development, location of tree protection fencing, and a signature of approval from the project arborist regarding the placement and construction techniques to be employed in building the structures. All proposed protection fencing shall be installed and inspected prior to commencing construction. The fencing shall remain in place through the duration of all of the building construction phases, until the Certificate of Occupancy has been approved. After approval from the City Forester, the tree protection measures may be removed.
33. Prior to issuance of building permits, the applicant shall submit revised plan and elevation drawings of the proposed units consistent with exterior elevation standards of Section 18.360.090.A.3.a.
34. Prior to issuance of building permits, the applicant shall demonstrate in a revised site plan that the remaining four units will also be provided with private outdoor area consistent with Section 18.360.090.A.6.a.
35. Prior to issuance of building permits, the applicant shall submit a lighting plan addressing the requirements of Section 18.360.090.A.10.e.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO A FINAL BUILDING INSPECTION:**

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the CURRENT PLANNING DIVISION, ATTN: Gary Pagenstecher 503-639-4171 EXT 2434. The cover letter shall clearly identify where in the submittal the required information is found:

36. Prior to final building inspection, the applicant shall complete the proposed improvements in substantial conformance with the final approved plans. A member of the planning division shall conduct a walkthrough of the site to ensure that this condition is met.
37. Prior to final building inspection, the applicant shall submit a letter from Clean Water Services indicating that the conditions of their service provider letter have been satisfied.

38. Prior to issuance of any Certificates of Occupancy, the applicant/owner shall record a deed restriction and include in the CCR's language to the effect that any existing tree greater than 12" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this decision should either die or be removed as a hazardous tree.

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the ENGINEERING DEPARTMENT, ATTN: KIM MCMILLAN 503-639-4171, EXT 2642. The cover letter shall clearly identify where in the submittal the required information is found:

39. Prior to a final building inspection, the applicant shall complete the required public improvements, obtain conditional acceptance from the City, and provide a one-year maintenance assurance for said improvements.
40. Prior to a final building inspection, the applicant shall provide the City with as-built drawings of the public improvements as follows: 1) 3/16" mil mylar, 2) a diskette of the as-builts in "DWG" format, if available; otherwise "DXF" will be acceptable, and 3) the as-built drawings shall be tied to the City's GPS network. The applicant's engineer shall provide the City with an electronic file with points for each structure (manholes, catch basins, water valves, hydrants and other water system features) in the development, and their respective X and Y State Plane Coordinates, referenced to NAD 83 (91).
41. The applicant shall either place the existing overhead utility lines along SW 95th Avenue underground as a part of this project, or they shall pay the fee in-lieu of undergrounding. The fee shall be calculated by the frontage of the site that is parallel to the utility lines and will be \$35.00 per lineal foot. If the fee option is chosen, the amount will be \$4,130.00 and it shall be paid prior to prior to final building inspection.
42. Prior to a final building inspection, the applicant shall demonstrate that they have entered into a maintenance agreement with Stormwater Management, or another company that demonstrates they can meet the maintenance requirements of the manufacturer, for the proposed onsite storm water treatment facility.
43. Prior to a final building inspection, the applicant's engineer shall submit a final sight distance certification for the access onto 95th Avenue.

THIS APPROVAL SHALL BE VALID FOR EIGHTEEN (18) MONTHS FROM THE EFFECTIVE DATE OF THIS DECISION.

SECTION III. BACKGROUND INFORMATION

Site History:

The subject property is part of the original Ashbrook Farm as indicated on the County's tax map. Staff conducted a search of City records for the subject property and found that no land use cases were associated with the subject property. The property was developed with a single-family residence prior to its incorporation into the City of Tigard. A Bureau of Building's demolition permit was issued for removal of the 800 square foot dwelling on Tax lot 2500 in August of 2000. The site currently contains two small sheds on Tax Lot 2500 and 4600, both proposed for removal.

Vicinity Information:

The site is located east of SW 95th Avenue, south of Shady Lane, and north of Longstaff Street. The majority of the site's northeast boundary abuts the Highway 217 right-of-way. The entire site is zoned R-12. The site's southern boundary along Tax Lot 4600 abuts R-4.5 zoned land.

Site Information and Proposal Description:

The site slopes downhill from its southern boundary from an elevation of 174 feet to the wetland area, which ranges from 171 to 168 feet near Highway 217. The site then crests at approximately 171 feet in the center of the site, before sloping gradually down toward SW 95th Avenue at an elevation of 168 feet. Average slopes range from less than 5% near the south side of the wetland to less than 1% elsewhere. The site is a mix of open space and forested areas with ash and pine trees predominant. A 1.43 acre wetland and buffer covers the site's southern flank.

The proposed eight block 43-unit condominium development is laid out on the irregular shaped site south of the proposed access Street A and entirely outside of the wetland and buffer areas.

SECTION IV. NEIGHBORHOOD COMMENTS

The Tigard Community Development Code requires that property owners within 500 feet of the subject site be notified of the proposal, and be given an opportunity for written comments and/or oral testimony prior to a decision being made. In addition, staff has posted a notice at the driveway to the site, visible from the street. Staff received three written comment letters from interested citizens.

Sue Bielke, Pat Whiting, and John Frewing submitted comment letters within the comment period which raise a number of issues, including appropriate type of review, adequacy of the applicant's submittal materials, sensitive lands, tree preservation, streets, sewer, storm drainage, buffering, and transit improvements.

RESPONSE: The applicant submitted a letter to the file dated April 3, 2006 "Response to Public Comments", addressing the issues raised in the three comment letters, which included Exhibits A-1 through A-3 in support of the applicant's proposal and narrative findings. Additionally, staff has addressed these issues in the applicable sections of this decision.

SECTION V. DECISION MAKING PROCEDURES, PERMITS AND USE

Use Classification: Section 18.130.020
Lists the Use Categories.

The applicant is seeking approval to construct 43-condominium units in 8 buildings. Attached dwelling units and multi-family style development are outright permitted uses in the R-12 zoning classification.

Summary Land Use Permits: Chapter 18.310
Defines the decision-making type to which the land-use application is assigned.

The application is subject to Site Development Review for the proposed use. No new lots are proposed. No Planned development is proposed. Site Development Review is an administrative Type II review process. Although some sensitive land reviews must be reviewed under Type III (Hearings Officer) and Type IV (Planning Commission and City Council hearings) processes, the following review will show these processes are not applicable.

Decision Making Procedures: Chapter 18.390
Describes the decision-making procedures.

Type II procedures apply to quasi-judicial permits and actions that contain some discretionary criteria. Type II actions provide public notice and are administrative reviews decided by the Director. If any party with standing appeals a Director's Type II decision, the appeal of such decision will be heard by the Tigard Hearings Officer.541

SECTION VI. SUMMARY OF APPLICABLE REVIEW CRITERIA

The proposal's consistency with these Code Chapters is reviewed in the following sections:

- A. Zoning Districts
 - 18.510 Residential Zoning Districts
- B. Applicable Development Code Standards
 - 18.705 Access Egress and Circulation
 - 18.715 Density Computations
 - 18.720 Design Compatibility Standards
 - 18.725 Environmental Performance Standards
 - 18.745 Landscaping and Screening
 - 18.755 Mixed Solid Waste and Recyclable Storage
 - 18.765 Off-Street parking and loading requirements
 - 18.775 Sensitive Lands
 - 18.780 Signs
 - 18.790 Tree Removal
 - 18.795 Visual Clearance
- C. Specific SDR Approval Criteria
 - 18.360
- D. Street and Utility Improvement Standards
 - 18.810
- E. Decision Making Procedures
 - 18.390 Impact Study

SECTION VII. APPLICABLE DEVELOPMENT CODE STANDARDS**A. ZONING DISTRICTS**

Residential Zoning District: Section 18.510.020
Lists the description of the Residential Zoning Districts.

The site is located in the R-12 zoning district. The proposed use, condominiums, is outright permitted in the zone. Condominiums are a type of multi-family development.

Development Standards:

Section 18.510.050 States that Development standards in Residential zoning districts are contained in Table 18.510.2 below:

**TABLE 18.510.2
DEVELOPMENT STANDARDS IN RESIDENTIAL ZONES**

| STANDARD | R-12 | PROPOSED |
|---|---------------------|-----------------------------|
| Minimum Lot Size | MFDU | 3,142 S.F. per unit |
| - Detached unit | 3,050 S.F. per unit | based on net buildable area |
| - Boarding, lodging, rooming house | | |
| Average Lot Width | None | NA |
| Minimum Setbacks | | |
| - Front yard | 20 ft | 20 ft |
| - Side facing street on corner & through lots | 20 ft | 20 ft |
| - Side yard | 10 ft | 10 ft |
| - Side or rear yard abutting more restrictive zoning district | 30 ft | 200 ft. |
| - Rear yard | 20 ft | 20 ft. |
| - Distance between front of garage & property line abutting a public or private street. | 20 ft | NA |
| Maximum Height | 35 ft | 34 ft |
| Maximum Site Coverage [1] | 80% | 48% |
| Minimum Landscape Requirement | 20% | 52% |

[1] Includes all buildings and impervious area

Since no individual lots will be created in this multi-family condominium development, lot size and width do not apply, except in determining density. It should be noted that the interior access drive is considered a driveway, and not a private street as defined by the development code. As such, the approaches to the individual units need not be spaced 20 feet from the driveway; they are only subject to a 20 foot setback from SW 95th Avenue. No units receive access directly from SW 95th Avenue. Nevertheless, many of the units provide insufficient distance in front of the garage to park vehicles without encroaching into the internal driveway. This issue is addressed further in Section 18.765 below:

The setbacks from the property line for the eight buildings are met except for the side yard setback for the eastern most unit adjacent to Highway 217 as shown on the applicant's site plan. The setback ranges from 5 feet at the front end of the unit to 12 feet at the back end. The standard requires a 10-foot setback for multi-family dwelling units. Therefore, this standard is not met.

The applicant's narrative states and the elevation drawings show that the proposed height of the buildings at 34 feet will be less than the maximum height allowed in the zone. Due to the significant wetland and wetland buffer on site, the 48% site coverage is substantially below the maximum coverage of 80% allowed in the zone. Based on the analysis above, the underlying zone's development standards are met.

FINDING: Based on the foregoing analysis, not all of the development standards in the R-12 zone have been met. With the following condition of approval the standards may be met.

CONDITION: The applicant shall submit a revised site plan showing a 10-foot side yard setback from the property line abutting Highway 217 to the eastern most unit.

B. APPLICABLE DEVELOPMENT CODE STANDARDS

The Site development Review approval standards require that a development proposal be found to be consistent with specific development standards of the Community Development Code. The applicable standards in this case include Chapters 18.705, 18.745, 18.755, 18.765, 18.775, 18.780, 18.790, 18.795, and 18.810. The proposal's consistency with these Code Chapters is reviewed in the following sections.

Access, Egress and Circulation (18.705):

Required walkway location, On-site pedestrian walkways shall comply with the following standards:

1. Walkways shall extend from the ground floor entrances or from the ground floor landing of stairs, ramps, or elevators of all commercial, institutional, and industrial uses, to the streets which provide the required access and egress. Walkways shall provide convenient connections between buildings in multi-building commercial, institutional, and industrial complexes. Unless impractical, walkways shall be constructed between new and existing developments and neighboring developments;

This is neither a commercial, institutional, and industrial use, therefore this standard is not applicable.

2. Within all attached housing (except two-family dwellings) and multi-family developments, each residential dwelling shall be connected by walkway to the vehicular parking area, and common open space and recreation facilities;

The applicant's revised site plan (Sheet 5, received May 10, 2005) includes a sidewalk north of A Street connecting SW 95th Avenue with the turnaround at the terminus of A Street. Each residential dwelling is located south of A Street and is connected by a walkway to the internal sidewalk system, parking areas, and common open spaces, consistent with this standard.

3. Wherever required walkways cross vehicle access driveways or parking lots, such crossings shall be designed and located for pedestrian safety. Required walkways shall be physically separated from motor vehicle traffic and parking by either a minimum 6-inch vertical separation (curbed) or a minimum 3-foot horizontal separation, except that pedestrian crossings of traffic aisles are permitted for distances no greater than 36 feet if appropriate landscaping, pavement markings, or contrasting pavement materials are used. Walkways shall be a minimum of four feet in width, exclusive of vehicle overhangs and obstructions such as mailboxes, benches, bicycle racks, and sign posts, and shall be in compliance with ADA standards;

The applicant has proposed a complete internal sidewalk system as described in the finding above. Where the walkways cross Street "A" they are marked by contrasting materials (concrete in an asphalt drive). The walkways are a minimum of four feet, consistent with this standard.

4. Required walkways shall be paved with hard surfaced materials such as concrete, asphalt, stone, brick, etc. Walkways may be required to be lighted and/or signed as needed for safety purposes. Soft-surfaced public use pathways may be provided only if such pathways are provided in addition to required pathways.

The proposed walkway is concrete. The applicant has shown that the interior driveway will be lit with pole mounted lights as shown on Sheet 5. The applicant has not proposed any soft-surfaced pathways. This standard has been met.

Minimum access requirements for residential use: Section 18.705.030H.

Section 18.705.030.H.1 states that an access report shall be submitted with all new development proposals which verifies design of driveways and streets are safe by meeting adequate stacking needs, sight distance and deceleration standards as set by ODOT, Washington County, the City and AASHTO.

The applicant's engineer has submitted the preliminary sight distance certification for this development. The speed limit on 95th Avenue is 25 mph which requires 250 feet of sight distance in both directions. Required stopping sight distance is 155 feet. The applicant's engineer states that sight distance to the south meets the required 250 feet. The sight distance to the north is approximately 205 feet, which does not meet this criterion. The engineer further states that sight distance can be improved to the north by removing trees in the creek corridor.

The City Engineer requires that sight distance requirements be met for safety and that stopping sight distance is deferred to only in unusual circumstances. Therefore, the applicant shall remove the trees in the creek corridor, with proper approvals, to achieve the minimum sight distance. The engineer shall provide a plan showing which trees are to be removed and the achievable sight distance.

Upon completion of the public improvements, the applicant's engineer shall provide the final sight distance certification.

Section 18.705.030.H.2 states that driveways shall not be permitted to be placed in the influence area of collector or arterial street intersections. Influence area of intersections is that area where queues of traffic commonly form on approach to an intersection. The minimum driveway setback from a collector or arterial street intersection shall be 150 feet, measured from the right-of-way line of the intersecting street to the throat of the proposed driveway. The setback may be greater depending upon the influence area, as determined from City Engineer review of a traffic impact report submitted by the applicant's traffic engineer. In a case where a project has less than 150 feet of street frontage, the applicant must explore any option for shared access with the adjacent parcel. If shared access is not possible or practical, the driveway shall be placed as far from the intersection as possible.

95th Avenue is classified as a Neighborhood Route; therefore this criterion does not apply.

Section 18.705.030.H.3 and 4 states that the minimum spacing of driveways and streets along a collector shall be 200 feet. The minimum spacing of driveways and streets along an arterial shall be 600 feet. The minimum spacing of local streets along a local street shall be 125 feet.

SW 95th Avenue is a local neighborhood street. This criterion does not apply.

Vehicular access and egress for single-family, duplex or attached single-family dwelling units on individual lots and multi-family residential uses shall not be less than as provided in Table 18.705.1 and Table 18.705.2.

**TABLE 18.705.2
VEHICULAR ACCESS/EGRESS REQUIREMENTS:
MULTIFAMILY RESIDENTIAL USE**

| Dwelling Units/Lots | Minimum Number of Driveways Required | Minimum Access Width | Minimum Pavement Width |
|---------------------|--------------------------------------|----------------------|------------------------|
| 20-49 | 1 | 30 feet | 24 feet |

The applicant has proposed an access road (A Street) 24 feet in width with a 4-foot wide sidewalk along one side for the length of the project site. A Street terminates in a turnaround. In addition short Streets B, C, and D provide lateral access off of A Street for approximately half of the proposed units. As proposed, the application complies with the minimum access requirements for serving 43 units.

Vehicular access to multi-family structures shall be brought to within 50 feet of the ground floor entrance or the ground floor landing of a stairway, ramp, or elevator leading to the dwelling units.

Vehicle access is brought directly to each unit as each unit is served by a garage. This criterion is satisfied.

Private residential access drives shall be provided and maintained in accordance with the provisions of the Uniform Fire Code.

The individual homeowners will maintain the access drives once the property is developed and sold. The Tualatin Valley Fire and Rescue district has reviewed the proposal and their comments have been incorporated at the end of this Decision. The applicant shall submit a letter from TVFR demonstrating that the Uniform Fire Code standards as contained in TVFR's comment letter have been met.

Access drives in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus by one of the following:

- A circular, paved surface having a minimum turn radius measured from center point to outside edge of 35 feet;
- A hammerhead-configured, paved surface with each leg of the hammerhead having a minimum depth of 40 feet and a minimum width of 20 feet;
- The maximum cross slope of a required turnaround is 5%.

The access drive is approximately 800 feet long and terminates in a turnaround with an outside radius of approximately 130 feet. Although this outside radius meets the TDC 95 foot radius standard, it must be reviewed by TVFR for consistency with their standards for turnarounds for fire apparatus, and a letter submitted by the applicant demonstrating compliance, as conditioned above in the previous finding.

Vehicle turnouts, (providing a minimum total driveway width of 24 feet for a distance of at least 30 feet), may be required so as to reduce the need for excessive vehicular backing motions in situations where two vehicles traveling in opposite directions meet on driveways in excess of 200 feet in length.

The vehicular access is 24 feet in width to allow for two way traffic on the site. This standard is not applicable.

Where permitted, minimum width for driveway approaches to arterials or collector streets shall be no less than 20 feet so as to avoid traffic turning from the street having to wait for traffic exiting the site.

There are no driveway approaches proposed to any arterials or collector streets. SW 95th is a neighborhood route. This criterion is satisfied.

FINDING: The proposed development is not consistent with all of the applicable standards for access, egress, and circulation; but may be consistent with the following conditions of approval:

CONDITIONS:

- Prior to the issuance of a site permit, the applicant shall submit a letter from Tualatin Valley Fire & Rescue (TVF&R) demonstrating that the Uniform Fire Code standards as contained in TVF&R's comment letter have been met.
- The applicant's engineer shall submit a tree removal plan to meet sight distance requirements to the north. Any trees removed pursuant to the tree removal plan shall comply with the standards of Section 18.790.050 for tree removal on sensitive lands, including submittal of tree removal permits.
- Prior to a final building inspection, the applicant's engineer shall provide the final sight distance certification.

Density Computations (18.715)**Density Calculation: 18.715.020****Definition of net development area.**

Net development area, in acres, shall be determined by subtracting the following land area(s) from the gross acres, which is all of the land included in the legal description of the property to be developed:

- All sensitive land areas: a. Land within the 100-year floodplain; b. Land or slopes exceeding 25%; c. Drainage ways; and d. Wetlands.
- All land dedicated to the public for park purposes;
- All land dedicated for public rights-of-way. When actual information is not available, the following formulas may be used: Single-family development: allocate 20% of gross acreage; Multi-family development: allocate 15% of gross acreage.
- All land proposed for private streets; and
- A lot of at least the size required by the applicable base zoning district, if an existing dwelling is to remain on the site.

Calculating maximum number of residential units.

To calculate the maximum number of residential units per net acre, divide the number of square feet in the net acres by the minimum number of square feet required for each lot in the applicable zoning district.

| | |
|--------------------------------|----------------------------|
| Gross lot area | 225,405 square feet |
| ROW/Street dedication | 881 square feet |
| Private access drive | 26,949 square feet |
| Sensitive Lands (steep slopes) | 62,463 square feet |
| NET DEVELOPABLE AREA | 135,112 square feet |

To calculate the maximum allowed density, net developable area is divided by the minimum allowed square footage within the zone, as follows:

R-12 zone

$$135,112 \div 3,050 = 44.3 \text{ dwelling units}$$

Calculating minimum number of residential units.

As required by Section 18.510.040, the minimum number of residential units per net acre shall be calculated by multiplying the maximum number of units determined in Subsection B above by 80% (0.8).

The minimum required density is determined by the following calculation:

$$44.3 \times 0.80 = 35.4 \text{ units}$$

FINDING: The applicant has proposed 43 units, consistent with the minimum and maximum density requirements.

Design Compatibility Standards (18.720)

These provisions apply to all multi-family and attached single-family residential projects in zoning districts R-4.5 through R-40 that abut property zoned for single-family residential development.

The subject site abuts an R-4.5 zone to the south and an R-12 zone to the south and west. The northeastern boundary of the property abuts Hwy 217. These standards would apply to that portion of the property adjacent to the R-4.5 zone where multifamily dwellings are not permitted. However, the proposed development is separated from this zone by a minimum of 180 feet of wetland and wetland buffers on the subject property. Therefore, the design standards in this chapter are not applicable to this proposal.

Environmental Performance Standards (18.725)

These standards require that federal and state environmental laws, rules and regulations be applied to development within the City of Tigard. Section 18.725.030 Performance Standards regulates: Noise, visible emissions, vibration and odors.

Noise:

For the purposes of noise regulation, the provisions of Sections 7.41.130 through 7.40.210 of the Tigard Municipal Code shall apply.

Visible Emissions:

Within the commercial zoning districts and the industrial park (IP) zoning district, there shall be no use, operation or activity which results in a stack or other point source emission, other than an emission from space heating, or the emission of pure uncombined water (steam) which is visible from a property line. Department of Environmental Quality (DEQ) rules for visible emissions (340-21-015 and 340-28-070) apply.

Vibration:

No vibration other than that caused by highway vehicles, trains and aircraft is permitted in any given zoning district which is discernible without instruments at the property line of the use concerned.

Odors:

The emissions of odorous gases or other matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited. DEQ rules for odors (340-028-090) apply.

Glare and heat:

No direct or sky reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, which is visible at the lot line shall be permitted, and; 1) there shall be no emission or transmission of heat or heated air which is discernible at the lot line of the source; and 2) these regulations shall not apply to signs or floodlights in parking areas or construction equipment at the time of construction or excavation work otherwise permitted by this title.

Insects and rodents:

All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

This is an attached multi-family project, which is an outright permitted use within the R-12 zoning classification. There is no indication within the application that these standards will not be met. However, ongoing efforts to meet these standards shall be maintained and any violation of these standards will be addressed by the City of Tigard's Code Enforcement Officer.

FINDING: The Environmental Performance standards are met.

Landscaping and Screening (18.745)**Street Trees:**

Section 18.745.040 states that all development projects fronting on a public street or a private drive more than 100 feet in length shall be required to plant street trees in accordance with Section 18.745.040.C Section 18.745.040.C requires that street trees be spaced between 20 and 40 feet apart depending on the size classification of the tree at maturity (small, medium or large).

The applicant has provided a Preliminary Planting Plan (Sheet 10) that includes street trees. The trees proposed are included on the City's Street Tree List but do not meet the spacing standards. The applicant's narrative states that the site layout precludes meeting the standard spacing. This standard is not satisfied.

The applicant shall revise their Preliminary Planting Plan to include street trees as approved by the City Forester at the proper spacing along A Street in accordance with Section 18.745.040.C.

Buffering and Screening:

Section 18.745.050 states that buffering and screening is required to reduce the impacts on adjacent uses which are of a different type in accordance with the matrices in this chapter (Tables 18.745.1 and 18.745.2). The owner of each proposed development is responsible for the installation and effective maintenance of buffering and screening. When different uses would be abutting one another except for separation by a right-of-way, buffering, but not screening, shall be required as specified in the matrix;

In lieu of these standards, a detailed buffer area landscaping and screening plan may be submitted for the Director's approval as an alternative to the buffer area landscaping and screening standards, provided it affords the same degree of buffering and screening as required by this code.

Buffering and screening requirements.

1. A buffer consists of an area within a required setback adjacent to a property line and having a depth equal to the amount specified in the buffering and screening matrix and containing a length equal to the length of the property line of the abutting use or uses;
2. A buffer area may only be occupied by utilities, screening, sidewalks and bikeways, and landscaping. No buildings, accessways or parking areas shall be allowed in a buffer area except where an accessway has been approved by the City;

The proposed development is multi-family in blocks of 4, 5, and 6 units. The existing/abutting uses are single-family dwellings on the south and west sides of the subject site in the R4.5 and R-12 zones, respectively. Pursuant to Table 18.745.1, 1-5 unit buildings require buffer "A" and 6+ unit buildings require buffer "C". Table 18.745.2 includes standards for required screening for buffer "C". The applicant's narrative states the proposed development will meet the 10-foot buffer standards, which is indicated in the site plan. It further states that the R-4.5 zone is adequately buffered by a 90 to 200 foot setback of wetland and wetland buffers. However, neither the narrative nor the plans show that the screening standards have been addressed for the 6-unit buildings adjacent to parcel 1700 which contains a single-family dwelling. No alternative landscaping and screening plan was submitted for the Director's approval. Therefore, this standard is not met.

The applicant shall revise their landscape plan to include a 4-foot hedge along the subject site's boundary with Lot 1700, consistent with the standards in 18.745.2.

Screening:

Special Provisions:

Section 18.745.050.E requires the screening of parking and loading areas. Landscaped parking areas shall include special design features which effectively screen the parking lot areas from view. Planting materials to be installed should achieve a relative balance between low lying and vertical shrubbery and trees. Trees shall be planted in landscaped islands in all parking areas, and shall be equally distributed on the basis of one (1) tree for each seven (7) parking spaces in order to provide a canopy effect. The minimum dimension on the landscape islands shall be three (3) feet wide and the landscaping shall be protected from vehicular damage by some form of wheel guard or curb.

The landscape plan provided by the applicant indicates that the parking areas will be landscaped with a mixture of ground cover, low lying shrubs, and trees. Therefore, this criterion is satisfied.

Screening Of Service Facilities.

Except for one-family and two-family dwellings, any refuse container or disposal area and service facilities such as gas meters and air conditioners which would otherwise be visible from a public street, customer or resident parking area, any public facility or any residential area shall be screened from view by placement of a solid wood fence or masonry wall between five and eight feet in height. All refuse materials shall be contained within the screened area;

The applicant does not show the location of any service facilities especially air conditioning units, so compliance with this standard cannot be verified at this time. Therefore, this standard is not satisfied.

The applicant shall submit a site plan illustrating the locations of all service facilities and demonstrate compliance with the screening standards of Chapter 18.745 of the TDC.

Screening Of Refuse Containers.

Except for one- and two-family dwellings, any refuse container or refuse collection area which would be visible from a public street, parking lot, residential or commercial area, or any public facility such as a school or park shall be screened or enclosed from view by placement of a solid wood fence, masonry wall or evergreen hedge. All refuse shall be contained within the screened area.

The applicant's narrative indicates that the development will be served by individual trash bins characteristic of the trash bins utilized in single-family residences. Individual trash bins are typically stored on the site and only visible from the street on collection days. This standard is satisfied.

FINDING: Based on the analysis above, the landscaping and screening standards have not been fully met. If the applicant complies with the conditions listed below, the standards will be met.

CONDITIONS:

- Prior to site work, the applicant shall revise their landscape plan to include street trees as approved by the City Forester at the proper spacing along A Street in accordance with Section 18.745.040.C.
- Prior to site work, the applicant shall revise their landscape plan to include a 4-foot hedge along the subject site's boundary with Tax Lot 1700, consistent with the standards in Section 18.745.2.
- Prior to the issuance of building permits, the applicant shall submit a site plan illustrating the locations of all service facilities and demonstrate compliance with the screening standards of Chapter 18.745 of the Tigard Development Code.

Mixed Solid Waste and Recyclables Storage (18.755):

Chapter 18.755 requires that new construction incorporate functional and adequate space for on-site storage and efficient collection of mixed solid waste and source separated Recyclables prior to pick-up and removal by haulers.

The applicant must choose one (1) of the following four (4) methods to demonstrate compliance: Minimum Standard, Waste Assessment, Comprehensive Recycling Plan, or Franchised Hauler Review and Sign-Off. The applicant will have to submit evidence or a plan which indicates compliance with this section. Regardless of which method chosen, the applicant will have to submit a written sign-off from the franchise hauler regarding the facility location and compatibility.

The applicant has indicated that the homes will be served by individual garbage bins typical of a single-family residence. However, the applicant has not provided any evidence that a franchise hauler would be satisfied with this style of collection for this type of development. Therefore, this standard is not satisfied.

FINDING: Because the applicant has not provided evidence of compliance with the Mixed Solid Waste and Recyclables Storage design standards, the standards of the chapter have not been met. If the applicant complies with the condition listed below, the standards will be met.

CONDITION: Prior to the issuance of building permits, the applicant shall submit verification from the franchise waste hauler indicating that the location of the proposed trash enclosures meets their requirements.

Off-Street Parking and Loading (18.765):

This Chapter is applicable for development projects when there is new construction, expansion of existing use, or change of use in accordance with Section 18.765.070 Minimum and Maximum Off-Street Parking Requirements.

The proposed project will create 43 condominiums. Condominiums are treated as multi-family development and the minimum parking standards are based on the number of bedrooms in individual units. The required parking is addressed later in this discussion.

Location of vehicle parking:

Off-street parking spaces for single-family and duplex dwellings and single-family attached dwellings shall be located on the same lot with the dwellings. Off-street parking lots for uses not listed above shall be located not further than 200 feet from the building or use that they are required to serve, measured in a straight line from the building with the following exceptions: a) commercial and industrial uses which require more than 40 parking spaces may provide for the spaces in excess of the required first 40 spaces up to a distance of 300 feet from the primary site;

The applicant has proposed condominium dwelling units in a multi-family building configuration with 16 three-bedroom units and 27 two-bedroom units. The applicant's narrative states each unit will contain 2 parking spaces. Guest parking is also provided within 200 feet of the proposed units, consistent with this standard.

Visitor Parking in Multi-Family Residential Developments:

Multi-dwelling units with more than 10 required parking spaces shall provide an additional 15% of vehicle parking spaces above the minimum required for the use of guests of residents of the complex. These spaces shall be centrally located or distributed throughout the development. Required bicycle parking facilities shall also be centrally located within or evenly distributed throughout the development.

The units configured as described above would require 69 parking spaces. The applicant's proposal includes a total of 86 spaces provided within the units. The 8 units on Street "B" and 6 units at the terminus of Private Street "A" can accommodate an additional 1 space outside the garages for an additional 14 spaces. An additional 33 spaces will be created for visitor parking in four parking courts adjacent to and distributed along Street "A". Overall, the applicant has provided for an additional 47 spaces (68%), consistent with this standard.

Twenty-two bicycle spaces are required at 1 for every 2 units per Table 18.765.2. The applicant has provided for indoor bicycle parking within each of the 43 condominium units, consistent with this standard.

Disabled-Accessible Parking:

All parking areas shall be provided with the required number of parking spaces for disabled persons as specified by the State of Oregon Uniform Building Code (UBC) and federal standards. Such parking spaces shall be sized, signed and marked as required by these regulations.

The applicant has proposed 33 accessory parking spaces; therefore, two (2) ADA handicap spaces are required. The applicant's plans do not demonstrate any ADA spaces, but the narrative speaks to providing them. This standard is not met.

As a condition of approval, the applicant shall submit a revised site plan showing two (2) ADA handicap spaces sized, signed, and marked as required by the UBC.

Access Drives:

With regard to access to public streets from off-street parking: access drives from the street to off-street parking or loading areas shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site; the number and size of access drives shall be in accordance with the requirements of Chapter 18.705, Access, Egress and Circulation; access drives shall be clearly and permanently marked and defined through use of rails, fences, walls or other barriers or markers on frontage not occupied by service drives; access drives shall have a minimum vision clearance in accordance with Chapter 18.795, Visual Clearance; access drives shall be improved with an asphalt or concrete surface; and excluding single-family and duplex residences, except as provided by Subsection 18.810.030.P, groups of two or more parking spaces shall be served by a service drive so that no backing movements or other maneuvering within a street or other public right-of-way will be required.

The access drive, has been designed to facilitate traffic flow, is identifiable, and paved. Vision clearance is addressed later in this decision under the discussion of Chapter 18.795. Staff has expressed concern, as has the Fire Marshall that the 24 foot wide driveway is the minimum width for two-way travel. Any obstruction of this travel way will jeopardize residents' safety. Several of the units are situated with less than the minimum distance required to park a vehicle. The Fire Marshall has commented that the private drive be signed with "No Parking" signs on both sides of the driveway. Additionally, the City will require that the applicant submit for review and approval, CC&R or deed language stating that parking shall not be allowed in front of units (specific units to be identified) with less than 18.5 feet of distance to the internal driveway or pedestrian sidewalk. The language shall also note that parking in violation of this restriction is considered a violation of the land use approval subject to civil court citation, in addition to any other remedies provided by law.

Pedestrian Access:

Pedestrian access through parking lots shall be provided in accordance with Section 18.705.030.F. Where a parking area or other vehicle area has a drop-off grade separation, the property owner shall install a wall, railing, or other barrier which will prevent a slow-moving vehicle or driverless vehicle from escaping such area and which will prevent pedestrians from walking over drop-off edges.

All parking areas have pedestrian access by way of the interior sidewalk system. This criterion is satisfied.

Parking Lot Striping:

Except for single-family and duplex residences, any area intended to be used to meet the off-street parking requirements as contained in this Chapter shall have all parking spaces clearly marked; and all interior drives and access aisles shall be clearly marked and signed to show direction of flow and maintain vehicular and pedestrian safety.

The plans submitted show the parking spaces will be clearly marked with striping. This criterion is satisfied.

Wheel Stops:

Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least four inches high located three feet back from the front of the parking stall. The front three feet of the parking stall may be concrete, asphalt or low lying landscape material that does not exceed the height of the wheel stop. This area cannot be calculated to meet landscaping or sidewalk requirements.

The applicant has not shown wheel stops on the site plan for any of the proposed parking stalls in the accessory parking areas, which are located along the boundaries of the lot and adjacent to interior landscaped areas. Therefore, this standard is not met.

As a condition of approval, the applicant shall submit a revised site plan showing wheel stops in proposed parking spaces.

Space and Aisle Dimensions:

Section 18.765.040.N states that: "except as modified for angled parking in Figures 18.765.1 and 18.765.2 the minimum dimensions for parking spaces are: 8.5 feet x 18.5 feet for a standard space and 7.5 feet x 16.5 feet for a compact space"; aisles accommodating two direction traffic, or allowing access from both ends, shall be 24 feet in width. No more than 50% of the required spaces may be compact spaces.

The applicant's plans and narrative indicate that no more than 50% of the required parking will be developed as compact spaces. This criterion is satisfied.

Bicycle Parking Location and Access:

Section 18.765.050 states bicycle parking areas shall be provided at locations within 50 feet of primary entrances to structures; bicycle parking areas shall not be located within parking aisles, landscape areas or pedestrian ways; outdoor bicycle parking shall be visible from on-site buildings and/or the street. When the bicycle parking area is not visible from the street, directional signs shall be used to locate the parking area; and bicycle parking may be located inside a building on a floor which has an outdoor entrance open for use and floor location which does not require the bicyclist to use stairs to gain access to the space. Exceptions may be made to the latter requirement for parking on upper stories within a multi-story residential building.

The site plan and narrative do not indicate any exterior bicycle parking spaces. According to Table 18.765.2 of the Tigard Development Code, the minimum bicycle parking requirement for a multi-family use is 1 space for every two units. Therefore, the proposal is required to provide 22 bicycle parking spaces. Considering the premise that each unit possesses a garage, it is not likely that the owners will be parking their bikes in racks. The garages will most likely serve to house the residents' bicycles. However, no accommodations for guest parking are provided. Using the premise that guest vehicle parking should account for 15% of the required parking, 15% of 22 bike spaces is 3 guest spaces. This standard is not satisfied.

Bicycle Parking Design Requirements:

Section 18.765.050.C. The following design requirements apply to the installation of bicycle racks: The racks required for required bicycle parking spaces shall ensure that bicycles may be securely locked to them without undue inconvenience. Provision of bicycle lockers for long-term (employee) parking is encouraged but not required; bicycle racks must be securely anchored to the ground, wall or other structure; bicycle parking spaces shall be at least 2½ feet by six feet long, and, when covered, with a vertical clearance of seven feet. An access aisle of at least five feet wide shall be provided and maintained beside or between each row of bicycle parking; each required bicycle parking space must be accessible without moving another bicycle; required bicycle parking spaces may not be rented or leased except where required motor vehicle parking is rented or leased. At-cost or deposit fees for bicycle parking are exempt from this requirement; and areas set aside for required bicycle parking must be clearly reserved for bicycle parking only. Outdoor bicycle parking facilities shall be surfaced with a hard surfaced material, i.e., pavers, asphalt, concrete or similar material. This surface must be designed to remain well drained.

The applicant has not provided a detail of the bike rack to be used; therefore, Staff is unable to confirm that this standard is met.

Minimum Bicycle Parking Requirements:

The total number of required bicycle parking spaces for each use is specified in Table 18.765.2 in Section 18.765.070.H. In no case shall there be less than two bicycle parking spaces.

As discussed above, according to Table 18.765.2 of the Tigard Development Code, the minimum bicycle parking requirement for a multi-family use is 1 space for every two units. The applicant is providing a garage with each unit. Therefore, three (3) additional bicycle parking spaces shall be located at the guest parking areas. This standard is not satisfied.

Minimum Off-Street Parking:

Section 18.765.070.H states that the minimum and maximum parking shall be as required in Table 18.765.2.

Table 18.765.2 states that the minimum parking for multi-family uses is 1.25 spaces for every one bedroom dwelling unit, 1.5 spaces for every two bedroom dwelling unit, and 1.75 spaces for every three bedroom dwelling unit. The proposal calls for 16 three-bedroom units and 27 two-bedroom dwelling units.

| Type of Unit | Space per Unit | Number of Units | Total Parking Required |
|--------------|----------------|-----------------|------------------------|
| 2 Bedroom | 1.50 | 27 | 40.5 |
| 3 Bedroom | 1.75 | 16 | 28 |
| TOTAL | | 43 | 68.5 |

The proposed units would require 69 parking spaces. The applicant's proposal includes a total of 86 spaces provided within the units. In addition, multi-family uses are required to provide an additional 15% for visitor parking (an additional 10 spaces). The 8 units on street "B" and 6 units at the terminus of Private Street "A" can accommodate an additional 1 space outside the garages for an additional 14 spaces. An additional 33 spaces will be created for visitor parking in four parking courts adjacent to and distributed along street "A". Overall, the applicant has provided for a total of 133 spaces, consistent with this standard.

FINDING: Based on the analysis above, the off-street parking and loading standards have not been fully satisfied. The applicant has exceeded the parking requirement for resident and guest parking. However, the site plan does not account for required ADA spaces which occupy more area than standard spaces, wheel stops in the guest parking spaces, or a prohibition on parking on the private driveway and in front of units without a minimum of 18.5 feet between the garage and the driveway. The site plan will need to be revised to reflect these requirements. Provided the applicant complies with the conditions listed below, the standards will be met.

CONDITIONS:

- Prior to site work, the applicant shall submit revised site plans that show two ADA compliant spaces.
- Prior to site work, the applicant shall submit a revised site plan showing wheel stops in proposed parking spaces.
- Prior to site work, the applicant shall submit revised site plans that show three (3) additional bicycle parking spaces located at the guest parking areas and a detail of the bike rack to be used.
- Prior to the issuance of building permits, the applicant shall submit for review and approval, copies of CCR or deed language restricting parking on the internal street or in front of units (to be specified) with less than 18.5 feet of setback distance from the internal driveway. The language shall also note that parking in violation of this restriction is considered a violation of the land use approval subject to civil court citation, in addition to any other remedies provided by law.

Sensitive Lands (18.775)

Purpose: Maintain integrity of rivers, streams, and creeks.

Sensitive land regulations contained in this chapter are intended to maintain the integrity of the rivers, streams, and creeks in Tigard by minimizing erosion, promoting bank stability, maintaining and enhancing water quality, and fish and wildlife habitats, and preserving scenic quality and recreation potential. The regulations also implement the comprehensive plan and floodplain management program, Clean Water Service (CWS) Design and Construction Standards, the Metro Urban Growth Management Functional Plan, Statewide Planning Goal 5 (Natural Resources), and protect public health, safety, and welfare.

Sensitive lands are lands potentially unsuitable for development because of their location within the 100-year floodplain or 1996 flood inundation line, whichever is greater; natural drainageways; wetland areas which are regulated by the other agencies including the U.S. Army Corps of Engineers and the Division of State Lands, or are designated as significant wetland on the City of Tigard Wetland and Stream Corridors Map; and steep slopes of 25% or greater and unstable ground.

The subject site is located approximately 200 lineal feet east of Ash Creek as it emerges downstream of the Hwy 217 culvert. According to the FEMA Flood Insurance Rate Maps, the flood elevation at this location is 161 feet. The subject site's elevation ranges from 168 to 172 feet. The proposed development is located outside the 100-year floodplain. According to the City's GIS system, the 1996 flood inundation line on Fanno Creek does not extend past Fanno Creek Park west of City Hall and is, therefore, inapplicable.

The City's steep slope inventory shows that no steep slopes exist on the subject site. The site is almost flat with only four feet of elevation difference across its length of approximately 1,000 lineal feet.

The subject property does include a drainageway at the southern end that drains a significant wetland as indicated on the City of Tigard Wetland and Stream Corridors Map (Wetland C-12 in Unit 2 - Lower Ash Creek). The wetland inventory, conducted by Fishman Environmental Services in 1995, characterizes the wetland as a 3.0-acre Palustrine Forest type with moderate wildlife, hydrologic, and aesthetic values and low values in the other listed categories.

Pursuant to TDC 18.775.050.B, "precise boundaries [of wetlands] may vary from those shown on wetland maps; specific delineation of wetland boundaries may be necessary [and] delineation will be done by a qualified professional . . ." This provision acknowledges that Tigard's significant wetlands inventory may include lands that are not actually wetlands if determined not to be by wetland delineation. Hence the Goal 5 safe harbor standard in TDC 18.775.130, which requires a Type IV Council hearing and decision, does not necessarily apply to all lands mapped as significant. The safer harbor standard is meant to apply only to those lands that are actually wetlands, as delineated. The purpose of a Type IV Council review is to apply a high level of discretion through an evaluation of an ESEE analysis that weighs the value of the significant wetland resource against other community values. The ESEE analysis would be irrelevant if the mapped lands were not actually wetlands.

The applicant submitted a Wetland Delineation and Natural Resource Assessment prepared by SWCA Environmental Consultants, dated September, 2005, which identified a 1.4 acre wetland on tax lot 100. Pursuant to Section 18.775.020, the applicant obtained a Clean Water Services service provider letter (File Number 05-004325, dated December 20, 2005) for the proposed development. The provider letter (Condition # 13) required a minimum buffer from delineated wetlands of 50 feet. The applicant's site plan shows the delineated wetlands and required buffers, consistent with condition #13. All proposed development is located outside the delineated wetlands and associated buffers.

However, if a sewer line extension from the subject site is required to cross the wetland and buffer to serve tax lot 8400 south of the wetland (applicant's Sanitary Sewer Exhibit Option # 3), then a sensitive lands permit may be required (as indicated by the applicant, boring a line under the wetland and buffer may be feasible). The applicant Sanitary Sewer Exhibit Option # 1 demonstrates that tax lot 8400 can be served by the sewer line in SW North Dakota, in which case no sensitive lands permit would be required.

Sensitive lands permits shall be required for the drainageways and wetlands when any of the following circumstances apply: ground disturbance(s) or land form alterations involving more than 50 cubic yards of material; repair, reconstruction, or improvement of an existing structure or utility, the cost of which equals or exceeds 50 percent of the market value of the structure prior to the improvement or the damage requiring reconstruction; residential and non-residential structures intended for human habitation; and Accessory structures which are greater than 528 square feet in size, outside floodway areas.

All proposed development is located on the portion of the subject site outside of any sensitive lands. Therefore, a sensitive lands permit is not required for the proposed development.

FINDING The applicant has obtained a service provider letter from Clean Water Services. The provider letter contains conditions of approval for the proposed subdivision. To ensure sensitive lands located on the subject parcel are protected, the applicant must comply with all conditions of approval contained in the letter.

CONDITION: Prior to final building inspection, the applicant shall submit a letter from Clean Water Services indicating that the conditions of their service provider letter have been satisfied.

Signs (18.780):

Chapter 18.780.130.B lists the type of allowable signs and sign area permitted in the R-12 Zoning District.

No signs are proposed in conjunction with this development. The applicant may apply for sign permits to erect entry signs as authorized in Section 18.780.130(A)(3). Any future signage will be subject to the sign permit requirements in Chapter 18.780. There has been a proliferation of sign violations from new development. In accordance with a new policy adopted by the Director's Designee, all developers must enter into a sign compliance agreement to facilitate a more expeditious court process for citations.

FINDING: To expedite enforcement of sign violations, a sign compliance agreement will be required.

CONDITION: Prior to the issuance of building permits, the applicant shall sign a copy of the City's sign compliance agreement.

Tree Removal (18.790):

Tree plan required. A tree plan for the planting, removal and protection of trees prepared by a certified arborist shall be provided for any lot, parcel or combination of lots or parcels for which a development application for a subdivision, partition, site development review, planned development or conditional use is filed. Protection is preferred over removal wherever possible.

As required for subdivisions, the applicant submitted a tree plan (dated January 26, 2006) conducted by Walter Knapp, a certified arborist. The report contains the four required components.

Plan requirements. The tree plan shall include the following:

1. Identification of the location, size and species of all existing trees including trees designated as significant by the city;

The Arborist Report identifies the location, size and species of 470 inventoried trees on the subject site, consistent with this standard.

2. Identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper. Mitigation must follow the replacement guidelines of Section 18.790.060D, in accordance with the following standards and shall be exclusive of trees required by other development code provisions for landscaping, streets and parking lots:

- a. Retention of less than 25% of existing trees over 12 inches in caliper requires a mitigation program in accordance with Section 18.790.060D of no net loss of trees;
- b. Retention of from 25% to 50% of existing trees over 12 inches in caliper requires that two-thirds of the trees to be removed be mitigated in accordance with Section 18.790.060D;
- c. Retention of from 50% to 75% of existing trees over 12 inches in caliper requires that 50 percent of the trees to be removed be mitigated in accordance with Section 18.790.060D;
- d. Retention of 75% or greater of existing trees over 12 inches in caliper requires no mitigation.

The arborist report shows a total of 125 non-hazardous or diseased trees (including 3 trees in the 95th Avenue right-of-way) greater than 12 inches of which 106 (84%) are to be retained. Retention of 75% or greater of existing trees over 12 inches in caliper requires no mitigation. Therefore, no mitigation is required.

3. Identification of all trees which are proposed to be removed;

All of the trees proposed to be removed are identified in the applicant's Existing Conditions and Tree Preservation Plan (Sheet 2).

4. A protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.

Guidelines for tree protection are outlined in the arborist report.

18.790.040.B Subsequent removal of a tree. Any tree preserved or retained in accordance with this section may thereafter be removed only for the reasons set out in a tree plan, in accordance with Section 18.790.030, or as a condition of approval for a conditional use, and shall not be subject to removal under any other section of this chapter. The property owner shall record a deed restriction as a condition of approval of any development permit affected by this section to the effect that such tree may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this section should either die or be removed as a hazardous tree. The form of this deed restriction shall be subject to approval by the Director.

A condition of approval will ensure that this standard is met.

FINDING: The applicant has provided an Arborist Report that addresses the four parts of the required tree removal plan. No tree mitigation is required. However, tree protection measures for those trees to remain are required and addressed in the following conditions of approval.

CONDITIONS:

- Prior to any site work the applicant shall install all proposed tree protection fencing. The fencing shall be inspected and approved by the City Forester prior to commencing any site work. The tree protection fencing shall remain in place through the duration of all of the building construction phases, until the Certificate of Occupancy has been approved.

- Prior to issuance of building permits, the applicant shall submit site plan drawings indicating the location of the trees that were preserved on the lot during site development, location of tree protection fencing, and a signature of approval from the project arborist regarding the placement and construction techniques to be employed in building the structures. All proposed protection fencing shall be installed and inspected prior to commencing construction. The fencing shall remain in place through the duration of all of the building construction phases, until the Certificate of Occupancy has been approved. After approval from the City Forester, the tree protection measures may be removed.

- Prior to any Certificates of Occupancy, the applicant shall ensure that the Project Arborist has submitted written reports to the City Forester, at least, once every two weeks, from initial tree protection zone (TPZ) fencing installation, through the building construction phases, as he monitors the construction activities and progress. This inspection will be to evaluate the tree protection fencing, determine if the fencing was moved at any point during construction, and determine if any part of the Tree Protection Plan has been violated. These reports must be provided to the City Forester until the time of the issuance of any Certificates of Occupancy. The reports shall include any changes that occurred to the TPZ as well as the condition and location of the tree protection fencing. If the amount of TPZ was reduced then the Project Arborist shall justify why the fencing was moved, and shall certify that the construction activities to the trees did not adversely impact the overall, long-term health and stability of the tree(s).

If the reports are not submitted or received by the City Forester at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan are not being followed by the contractor or a sub-contractor, the City can stop work on the project until an inspection can be done by the City Forester and the Project Arborist. Prior to issuance of any Certificates of Occupancy, the Project Arborist will submit a final certification indicating the elements of the Tree Protection Plan were followed and that all remaining trees on the site are healthy, stable and viable in their modified growing environment.

- Prior to issuance of any Certificates of Occupancy, the applicant/owner shall record a deed restriction and include in the CC&R's language to the effect that any existing tree greater than 12" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this decision should either die or be removed as a hazardous tree.

- The following text shall be included in all construction documents: Notwithstanding any other provision of this title, any party found to be in violation of the tree removal chapter (including but not limited to removal or damage to trees not approved for removal) shall be subject to a civil penalty of up to \$500 pursuant to Chapter 1.16 of the Tigard Municipal Code and shall be required to remedy any damage caused by the violation. Such remediation shall include, but not be limited to, the following:

- A. Replacement of unlawfully removed or damaged trees in accordance with Section 18.790.060 (D) of the Tigard Development Code; and
- B. Payment of an additional civil penalty representing the estimated value of any unlawfully removed or damaged tree, as determined using the most current International Society of Arboriculture's Guide for Plant Appraisal.

Visual Clearance Areas (18.795):

Chapter 18.795 requires that a clear vision area shall be maintained on the corners of all property adjacent to intersecting right-of-ways or the intersection of a public street and a private driveway. A clear vision area shall contain no vehicle, hedge, planting, fence, wall structure, or temporary or permanent obstruction exceeding three (3) feet in height. The code provides that obstructions that may be located in this area shall be visually clear between three (3) and eight (8) feet in height (8) (trees may be placed within this area provided that all branches below eight (8) feet are removed). A visual clearance area is the triangular area formed by measuring a 30-foot distance along the street right-of-way and the driveway, and then connecting these two (2), 30-foot distance points with a straight line.

The applicant has indicated in the narrative and the site plan that a clear vision area will be maintained. Staff will review the areas at the time of final occupancy to ensure compliance with the standards. This criterion is satisfied.

FINDING: Based on the analysis above, the vision clearance standards have been met.

C. SPECIFIC SITE DEVELOPMENT REVIEW APPROVAL STANDARDS

Section 18.360.090(A)(2) through 18.360.090(A)(15) provides additional Site Development Review approval standards not necessarily covered by the provisions of the previously listed sections. These additional standards are addressed below:

Compliance with all of the applicable requirements of this title including Chapter 18.810, Street and Utility Standards;

Those titles of the Tigard Development Code (TDC) have been addressed elsewhere in this decision where applicable. Chapter 18.810 is discussed later in this chapter. Compliance with the chapters has been demonstrated, or conditions have been imposed on the development to ensure compliance where applicable.

Relationship to the natural and physical environment:

Buildings shall be located to preserve existing trees; topography and natural drainage where possible based upon existing site conditions; located in areas not subject to ground slumping or sliding; located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire-fighting; and Oriented with consideration for sun and wind.

The applicant has provided a tree plan. The site is proposed to be developed with respect to the natural and physical environment retaining a large number of trees located in the wetland and wetland buffer areas on the southern portion of the site. The minimum distance between buildings is 10 feet with most distances ranging from 15 feet to 58 feet. The applicant has been careful to ensure that there is adequate distance between the buildings to ensure that adequate light, air circulation, and firefighting is attainable. The buildings are oriented primarily to the south and southwest such that all buildings will receive some sun during the day. Twenty-four second level decks face south, 11 face southwest and 4 face west. This criterion is satisfied.

Trees shall be preserved to the extent possible. Replacement of trees is subject to the requirements of Chapter 18.790, Tree Removal.

Tree preservation has been addressed previously in this decision under the Tree Removal Section.

Exterior elevations:

Along the vertical face of single-family attached and multiple-family structures, offsets shall occur at a minimum of every 30 feet by providing any two of the following recesses, e.g., decks, patios, entrances, floor area, of a minimum depth of eight feet; Extensions, e.g., decks, patios, entrances, floor area, of a minimum depth of eight feet; a maximum length of an overhang shall be 25 feet; and Offsets or breaks in roof elevations of three or more feet in height.

The applicant has indicated in the narrative that offsets will occur at a minimum of every thirty feet through a combination of recesses and extensions, and that the minimum depth for all decks, patios and entrances is 8 feet. According to the definition of building plane in TDC 18.720.030.A.2.d, a single building plane includes planes with offsets less than four feet, but does not include the roof plane. It appears from the Preliminary Floor Plan that most of the building planes are setback approximately two feet at 35-foot intervals. In addition, the Preliminary Floor Plans and Elevation drawings show that proposed decks are approximately 5 feet deep, entrances are approximately 6 feet deep, and floor area projections are approximately 2 feet. These recess and extension dimensions are less than the required 8 foot minimum. The applicant's narrative states the roof lines are proposed to be offset every 35 feet - 4 inches. However, it is likely that since the vertical building planes are offset only 2 feet, that the roof line offsets would be correspondingly 2 feet and less than the 4 foot minimum. Therefore, the exterior elevation standards are not met. As a condition of approval, the applicant shall submit revised plan and elevation drawings of the proposed units consistent with exterior elevation standards of Section 18.360.090.A.3.a.

Buffering, screening and compatibility between adjoining uses:

Buffering and screening shall be provided between different types of land uses, for example, between single-family and multiple-family residential, and residential and commercial uses, and the following factors shall be considered in determining the adequacy of the type and extent of the buffer: On site buffering and screening from view from adjoining properties of such things as service areas, storage areas, parking lots, and mechanical devices on roof tops, i.e., air cooling and heating systems, shall be provided and the following factors will be considered in determining the adequacy of the type and extent of the screening:

Buffering and screening of abutting single-family uses to the west and south of the subject site has been addressed above under the analysis in Chapter 18.745. This standard is satisfied.

Privacy and noise: multi-family or group living uses:

Structures which include residential dwelling units shall provide private outdoor areas for each ground floor unit which is screened from view by adjoining units as provided in Subsection 6.a below;

The buildings shall be oriented in a manner which protects private spaces on adjoining properties from view and noise; On-site uses which create noise, light, or glare shall be buffered from adjoining residential uses; and buffers shall be placed on the site as necessary to mitigate noise, light or glare from off-site sources.

The applicant is providing a buffer and has been conditioned to provide screening to ensure that the adjoining properties will be protected from views and noises that are nuisances. In addition, the applicant proposes an 8-foot high concrete screening wall between the subject site and adjacent Highway 217 to the northeast to provide attenuation of the traffic noise and a visual barrier to the highway for the benefit of the residents in the proposed development. This standard is met.

Private outdoor area: multi-family use:

Private open space such as a patio or balcony shall be provided and shall be designed for the exclusive use of individual units and shall be at least 48 square feet in size with a minimum width dimension of four feet; and balconies used for entrances or exits shall not be considered as open space except where such exits or entrances are for the sole use of the unit; and required open space may include roofed or enclosed structures such as a recreation center or covered picnic area. Wherever possible, private outdoor open spaces should be oriented toward the sun; and private outdoor spaces shall be screened or designed to provide privacy for the users of the space.

The applicant has indicated in the narrative that all units will have a private second-floor deck, 5 x 11 feet (55 square feet) in size. However, the site plan shows that four units abutting the proposed Street "B" do not have these decks. Decks for 24 of the proposed units are facing south, 13 units are facing west, and 2 units are facing east. No proposed decks are facing north and all face away from Highway 217. The proposed private outdoor areas are consistent with this standard. However, the applicant shall demonstrate in a revised site plan that the remaining four units will also be provided with private outdoor area consistent with this standard.

Shared outdoor recreation areas: multi-family use:

In addition to the requirements of the subsections above, usable outdoor recreation space shall be provided in residential developments for the shared or common use of all the residents in the following amounts: Studio up to and including two-bedroom units, 200 square feet per unit; and Three or more bedroom units, 300 square feet per unit. The required recreation space may be provided as follows: It may be all outdoor space; or It may be part outdoor space and part indoor space; for example, an outdoor tennis court, and indoor recreation room; or It may be all public or common space; or It may be part common space and part private; for example, it could be an outdoor tennis court, indoor recreation room and balconies on each unit; and where balconies are added to units, the balconies shall not be less than 48 square feet. Shared outdoor recreation space shall be readily observable to promote crime prevention and safety.

Of the 43 residential condominiums units, 27 will be 2-bedroom and 16 will be 3-bedroom units. Therefore, 5,400 square feet of space is required for 2-bedroom units and 4,800 square feet is required for the 3-bedroom units; 10,200 square feet in total. The applicant proposes that the 17,763-square foot wetland buffer serve as the required useable outdoor recreation space. An approximately 10,000 square foot portion of the site perimeter will be enhanced with landscaping and left as open space. This common area is traversed by a 4-foot wide concrete path for access and recreational use. In addition, there is a 1.4-acre wetland and associated stand of trees in the southern portion of the site. Therefore, the proposed development is consistent with the standard for outdoor space for common use of all residents.

Where landfill and/or development is allowed within and adjacent to the 100-year floodplain, the City shall require consideration of the dedication of sufficient open land area for greenway adjoining and within the floodplain. This area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the adopted pedestrian/ bicycle plan.

The subject site is located approximately 200 lineal feet east of Ash Creek as it emerges downstream of the Hwy 217 culvert. According to the FEMA Flood Insurance Rate Maps, the flood elevation at this location is 161 feet. The subject site's elevation ranges from 168 to 172 feet. The proposed development is located outside and is not adjacent to the 100-year floodplain. This standard does not apply.

Demarcation of public, semi-public and private spaces for crime prevention:

The structures and site improvements shall be designed so that public areas such as streets or public gathering places, semi-public areas and private outdoor areas are clearly defined to establish persons having a right to be in the space, to provide for crime prevention and to establish maintenance responsibility; and these areas may be defined by, but not limited to: A deck, patio, low wall, hedge, or draping vine; A trellis or arbor; A change in elevation or grade; A change in the texture of the path material; Sign; or landscaping.

The applicant has stated in the narrative that passive outdoor areas will not be paved in any fashion, where other areas are paved with curb delineating the surfaces. The applicant has provided a landscaping plan to demonstrate compliance, and the public areas are apparent on the site plan. The site itself is served by a private drive that will be marked with alternative signage. Compliance with this standard as with all other standards related to privacy will be verified at the time staff does a final inspection. This standard is satisfied.

Crime prevention and safety:

Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants; Interior laundry and service areas shall be located in a way that they can be observed by others; Mail boxes shall be located in lighted areas having vehicular or pedestrian traffic; The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime; and light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps and abrupt grade changes. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person.

The applicant has indicated in the narrative that they intend to meet these standards. Perhaps the area most susceptible to crime is the wetland and buffer area. Twelve of the proposed units will have second and third floor windows that look over this area. Each unit will have its own private laundry area; mailboxes will be along the private drive or located out on the public street. The applicant has not provided a lighting plan to address the type and location of lighting required under this standard. Therefore, as a condition of approval the applicant shall submit a lighting plan addressing the requirements of 360.090.A.10.c.

Public transit:

Provisions within the plan shall be included for providing for transit if the development proposal is adjacent to or within 500 feet of existing or proposed transit route. The requirements for transit facilities shall be based on: The location of other transit facilities in the area; and the size and type of the proposal.

The applicant submitted a revised Site Plan dated May 18, 2006, on which the applicant proposes street improvements on SW 95th Ave for pedestrian access to Tri-Met bus routes 76 (Beaverton-Tualatin) and 78 (Beaverton-Lake Oswego) which operate nearby along SW Greenburg Road. The stops are located within roughly 1,400 feet and 1,900 feet of the site, respectively. This standard is met.

Landscaping:

All landscaping shall be designed in accordance with the requirements set forth in Chapter 18.745;

Landscaping and the applicable landscaping standards have been addressed previously in this decision. This standard is satisfied.

Drainage:

All drainage plans shall be designed in accordance with the criteria in the adopted 1981 master drainage plan;

Discussion relating to compliance with drainage standards has been addressed in the following discussion of streets and utilities. This standard is satisfied.

Provision for the disabled: All facilities for the disabled shall be designed in accordance with the requirements set forth in ORS Chapter 447; and

The applicant has not addressed this standard. Compliance with this standard is ensured during plan review of the individual buildings and site work permit. This standard is satisfied.

All of the provisions and regulations of the underlying zone shall apply unless modified by other sections or this title, e.g., Planned Developments, Chapter 18.350; or a variance or adjustment granted under Chapter 18.370.

These items have been discussed elsewhere in this decision. Where the standards have been found to be deficient, conditions have been imposed on the development to ensure compliance. This standard is satisfied.

FINDING: The application has not demonstrated compliance with all applicable Site Development Review Criteria. With the following conditions of approval the standards can be met.

CONDITIONS:

- The applicant shall submit revised plan and elevation drawings of the proposed units consistent with exterior elevation standards of Section 18.360.090.A.3.a.
- The applicant shall demonstrate in a revised site plan that the remaining four units will also be provided with private outdoor area consistent with Section 18.360.090.A.6.a.
- The applicant shall submit a lighting plan addressing the requirements of Section 18.360.090.A.10.c.

D. STREET AND UTILITY IMPROVEMENTS STANDARDS (SECTION 18.810):

Chapter 18.810 provides construction standards for the implementation of public and private facilities and utilities such as streets, sewers, and drainage. The applicable standards are addressed below:

Section 18.810.030.A.1 states that streets within a development and streets adjacent shall be improved in accordance with the TDC standards.

Section 18.810.030.A.2 states that any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with the TDC.

Minimum Rights-of-Way and Street Widths:

Section 18.810.030.E requires an arterial street to have a 100-foot right-of-way width and a -foot paved section. Other improvements required may include on-street parking, sidewalks and bikeways, underground utilities, street lighting, storm drainage, and street trees.

This site lies adjacent to SW 95th Avenue, which is classified as a Neighborhood Route on the City of Tigard Transportation Plan Map. At present, there is approximately 20 feet of right-of-way (ROW) from centerline, according to the most recent tax assessor's map. The applicant should dedicate the additional ROW to provide 27 feet from centerline.

ODOT is not requiring additional ROW along the Highway 217 frontage.

SW 95th Avenue is currently partially improved. In order to mitigate the impact from this development, the applicant should construct half-street improvements along their frontage. In addition, the applicant shall provide a minimum of 24 feet of paving on 95th Avenue to a point where the paving meets this minimum width.

Future Street Plan and Extension of Streets:

Section 18.810.030.F states that a future street plan shall be filed which shows the pattern of existing and proposed future streets from the boundaries of the proposed land division. This section also states that where it is necessary to give access or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary lines of the tract to be developed and a barricade shall be constructed at the end of the street. These street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets at such time as the adjoining property is developed. A barricade shall be constructed at the end of the street by the property owners which shall not be removed until authorized by the City Engineer, the cost of which shall be included in the street construction cost. Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub streets in excess of 150 feet in length.

The applicant submitted a circulation plan. Due to existing development, Highway 217 and the wetlands, there are no opportunities to provide for future streets or extensions.

Street Alignment and Connections:

Section 18.810.030.H.1 states that full street connections with spacing of no more than 530 feet between connections is required except where prevented by barriers such as topography, railroads, freeways, pre-existing developments, lease provisions, easements, covenants or other restrictions existing prior to May 1, 1995 which preclude street connections. A full street connection may also be exempted due to a regulated water feature if regulations would not permit construction.

Section 18.810.030.H.2 states that all local, neighborhood routes and collector streets which abut a development site shall be extended within the site to provide through circulation when not precluded by environmental or topographical constraints, existing development patterns or strict adherence to other standards in this code. A street connection or extension is precluded when it is not possible to redesign, or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slopes greater than 15% for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the constraint precludes some reasonable street connection.

The applicant submitted a circulation plan. Due to existing development, Highway 217 and the wetlands, there are no opportunities to provide additional street connections.

Cul-de-sacs:

18.810.030.I states that a cul-de-sac shall be no more than 200 feet long, shall not provide access to greater than 20 dwelling units, and shall only be used when environmental or topographical constraints, existing development pattern, or strict adherence to other standards in this code preclude street extension and through circulation:

- All cul-de-sacs shall terminate with a turnaround. Use of turnaround configurations other than circular, shall be approved by the City Engineer; and
- The length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac.
- If a cul-de-sac is more than 300 feet long, a lighted direct pathway to an adjacent street may be required to be provided and dedicated to the City.

The proposed development is served by an access road and not a public or private street. Therefore, this standard does not apply.

Grades and Curves:

Section 18.810.030.N states that grades shall not exceed ten percent on arterials, 12% on collector streets, or 12% on any other street (except that local or residential access streets may have segments with grades up to 15% for distances of no greater than 250 feet). Centerline radii of curves shall be as determined by the City Engineer.

The grades on 95th Avenue are less than 12%, thereby meeting this criterion.

Access to Arterials and Major Collectors:

Section 18.810.030.Q states that where a development abuts or is traversed by an existing or proposed arterial or major collector street, the development design shall provide adequate protection for residential properties and shall separate residential access and through traffic, or if separation is not feasible, the design shall minimize the traffic conflicts. The design shall include any of the following:

- A parallel access street along the arterial or major collector;
- Lots of suitable depth abutting the arterial or major collector to provide adequate buffering with frontage along another street;
- Screen planting at the rear or side property line to be contained in a nonaccess reservation along the arterial or major collector; or
- Other treatment suitable to meet the objectives of this subsection;
- If a lot has access to two streets with different classifications, primary access should be from the lower classification street.

The subject site abuts SW 95th Avenue, a neighborhood street and Highway 217, a freeway. Therefore, this standard does not apply.

Private Streets:

Section 18.810.030.T states that design standards for private streets shall be established by the City Engineer. The City shall require legal assurances for the continued maintenance of private streets, such as a recorded maintenance agreement. Private streets serving more than six dwelling units are permitted only within planned developments, mobile home parks, and multi-family residential developments.

Since this project is a condominium development, the entire internal access network is classified as a private driveway to be privately maintained by the condominium owners. State statutes set out specific regulations as to how ownership and maintenance of common areas is established. The internal access system will be reviewed and inspected by the Building Division as a part of the Site Permit.

Block Designs:

Section 18.810.040.A states that the length, width and shape of blocks shall be designed with due regard to providing adequate building sites for the use contemplated, consideration of needs for convenient access, circulation, control and safety of street traffic and recognition of limitations and opportunities of topography.

Block Sizes:

Section 18.810.040.B.1 states that the perimeter of blocks formed by streets shall not exceed 1,800 feet measured along the right-of-way line except:

- Where street location is precluded by natural topography, wetlands or other bodies of water or, pre-existing development or;
- For blocks adjacent to arterial streets, limited access highways, major collectors or railroads.
- For non-residential blocks in which internal public circulation provides equivalent access.

No streets are being created by this development. Future street connection for this development is prohibitive due to the wetlands on the southern portion of the site and Highway 217 to the northeast. The applicant's Connectivity Plan (Sheet 4 of 10) shows SW Longstaff Street and SW 93rd Avenue connecting to the west of the site. This connection would create a block length of approximately 1,850 lineal feet, consistent with this standard.

Section 18.810.040.B.2 also states that bicycle and pedestrian connections on public easements or right-of-ways shall be provided when full street connection is not possible. Spacing between connections shall be no more than 330 feet, except where precluded by environmental or topographical constraints, existing development patterns, or strict adherence to other standards in the code.

There are no opportunities for a bicycle or pedestrian connection to surrounding streets other than along the private drive to SW 95th Avenue, which is proposed. The proposed Street "D" which goes to the property line at the end of the private drive, could be extended through to a future SW 93rd Avenue when the adjacent property to the west is developed, consistent with this standard.

Lots - Size and Shape:

Section 18.810.060(A) prohibits lot depth from being more than 2.5 times the average lot width, unless the parcel is less than 1.5 times the minimum lot size of the applicable zoning district.

The subject site, comprised of four parcels will be re-platted into a single parcel; the applicant is not proposing to create any new parcels. This standard is satisfied.

Lot Frontage:

Section 18.810.060(B) requires that lots have at least 25 feet of frontage on public or private streets, other than an alley. In the case of a land partition, 18.420.050.A.4.c applies, which requires a parcel to either have a minimum 15-foot frontage or a minimum 15-foot wide recorded access easement. In cases where the lot is for an attached single-family dwelling unit, the frontage shall be at least 15 feet.

The parcel is pre-existing and has over 117 feet of frontage onto SW 95th Avenue, consistent with this standard.

Sidewalks:

Section 18.810.070.A requires that sidewalks be constructed to meet City design standards and be located on both sides of arterial, collector and local residential streets.

The applicant's plans indicate they will be constructing a public sidewalk along their frontage. In addition, the applicant's plan indicates they will extend pedestrian access to the Tri-Met bus stop. The pedestrian access shall be a minimum of a 4 foot wide concrete sidewalk.

Sanitary Sewers:

Sewers Required: Section 18.810.090.A requires that sanitary sewer be installed to serve each new development and to connect developments to existing mains in accordance with the provisions set forth in Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 1996 and including any future revisions or amendments) and the adopted policies of the comprehensive plan.

Over-sizing:

Section 18.810.090.C states that proposed sewer systems shall include consideration of additional development within the area as projected by the Comprehensive Plan.

The applicant has proposed to extend the public sewer into the development in two locations. The applicant has provided maps showing how future connections from other properties might be made. Because of the wetlands the extension of the sewer along the southwest corner of the property is difficult. The applicant has shown how the remaining unserved properties can connect to the public sewer in North Dakota Street. The plans also show that the applicant is willing to provide a 15 foot easement along the south westerly property boundary, in the event an extension of the public sewer through the wetlands becomes necessary. Therefore, the applicant will provide a 15 foot public sewer easement along their south westerly property boundary and the public sewer shall be extended to the north side of the wetland buffer, terminating with a manhole.

Storm Drainage:

General Provisions: Section 18.810.100.A states requires developers to make adequate provisions for storm water and flood water runoff.

Accommodation of Upstream Drainage:

Section 18.810.100.C states that a culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development. The City Engineer shall approve the necessary size of the facility, based on the provisions of Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 2000 and including any future revisions or amendments).

The drainage pattern in this area is mainly flowing north towards Highway 217. The runoff is then directed to the northwest into Ash Creek. Some of the upstream drainage that enters the development will be collected and eventually discharged to Ash Creek. Much of the upstream runoff will enter the wetlands area.

Effect on Downstream Drainage:

Section 18.810.100.D states that where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the Director and Engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with the Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 2000 and including any future revisions or amendments).

In 1997, Clean Water Services (CWS) completed a basin study of Fanno Creek and adopted the Fanno Creek Watershed Management Plan. Section V of that plan includes a recommendation that local governments institute a stormwater detention/effective impervious area reduction program resulting in no net increase in storm peak flows up to the 25-year event. The City will require that all new developments resulting in an increase of impervious surfaces provide onsite detention facilities, unless the development is located adjacent to Fanno Creek. For those developments adjacent to Fanno Creek, the storm water runoff will be permitted to discharge without detention.

The plans indicate the installation of a detention pipe on-site. The stormwater will then be discharged to a public storm sewer that will be constructed by another development on the west side of 95th Avenue. The applicant has agreed to share in the cost to upsize this pipe to include runoff from their development. The applicant shall coordinate their design with the approved development's engineer. If the approved development, known as Livingston Lane Subdivision, is not under construction prior to issuance of permits for this development, then this applicant shall construct the public storm sewer in 95th Avenue and the discharge into Ash Creek.

Bikeways and Pedestrian Pathways:

Bikeway Extension: Section 18.810.110.A states that developments adjoining proposed bikeways identified on the City's adopted pedestrian/bikeway plan shall include provisions for the future extension of such bikeways through the dedication of easements or right-of-way.

SW 95th Avenue is not classified as a bicycle facility.

Cost of Construction:

Section 18.810.110.B states that development permits issued for planned unit developments, conditional use permits, subdivisions, and other developments which will principally benefit from such bikeways shall be conditioned to include the cost of construction of bikeway improvements.

Since SW 95th Avenue is not classified as a bicycle facility, this standard is not applicable.

Utilities:

Section 18.810.120 states that all utility lines, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above, and:

- The developer shall make all necessary arrangements with the serving utility to provide the underground services;
- The City reserves the right to approve location of all surface mounted facilities;
- All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
- Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

Exception to Under-Grounding Requirement:

Section 18.810.120.C states that a developer shall pay a fee in-lieu of under-grounding costs when the development is proposed to take place on a street where existing utilities which are not underground will serve the development and the approval authority determines that the cost and technical difficulty of under-grounding the utilities outweighs the benefit of under-grounding in conjunction with the development. The determination shall be on a case-by-case basis. The most common, but not the only, such situation is a short frontage development for which under-grounding would result in the placement of additional poles, rather than the removal of above-ground utilities facilities. An applicant for a development which is served by utilities which are not underground and which are located across a public right-of-way from the applicant's property shall pay a fee in-lieu of under-grounding.

There are existing overhead utility lines along the frontage of SW 95th Avenue. If the fee in-lieu is proposed, it is equal to \$35.00 per lineal foot of street frontage that contains the overhead lines. The frontage along this site is 118 lineal feet; therefore the fee would be \$4,130.00.

ADDITIONAL CITY AND/OR AGENCY CONCERNS WITH STREET AND UTILITY IMPROVEMENT STANDARDS:**Public Water System:**

Tualatin Valley Water District (TVWD) provides service in this area. The applicant shall provide approved plans from TVWD prior to issuance of City permits.

Storm Water Quality:

The City has agreed to enforce Surface Water Management (SWM) regulations established by Clean Water Services (CWS) Design and Construction Standards (adopted by Resolution and Order No. 00-7) which require the construction of on-site water quality facilities. The facilities shall be designed to remove 65 percent of the phosphorus contained in 100 percent of the storm water runoff generated from newly created impervious surfaces. In addition, a maintenance plan shall be submitted indicating the frequency and method to be used in keeping the facility maintained through the year.

Prior to construction, the applicant shall submit plans and calculations for a water quality facility that will meet the intent of the CWS Design Standards. In addition, the applicant shall submit a maintenance plan for the facility that must be reviewed and approved by the City prior to construction.

The proposed manhole unit from Stormwater Management is not acceptable. The Stormwater Management vault is acceptable, provided the property owner agrees to hire the manufacturer (or approved equal) to provide the required maintenance of the unit. Prior to a final building inspection, the applicant shall demonstrate that they have entered into a maintenance agreement with Stormwater Management, or another company that demonstrates they can meet the maintenance requirements of the manufacturer.

Grading and Erosion Control:

CWS Design and Construction Standards also regulate erosion control to reduce the amount of sediment and other pollutants reaching the public storm and surface water system resulting from development, construction, grading, excavating, clearing, and any other activity which accelerates erosion. Per CWS regulations, the applicant is required to submit an erosion control plan for City review and approval prior to issuance of City permits.

The Federal Clean Water Act requires that a National Pollutant Discharge Elimination System (NPDES) erosion control permit be issued for any development that will disturb one or more acre of land. Since this site is over five acres, the developer will be required to obtain an NPDES permit from the City prior to construction. This permit will be issued along with the site and/or building permit.

The applicant will be required to obtain an NPDES 1200-C permit.

Site Permit Required:

The applicant is required to obtain a Site Permit from the Building Division to cover all on-site private utility installations (water, sewer, storm, etc.) and driveway construction. This permit shall be obtained prior to approval of the final plat.

Address Assignments:

The City of Tigard is responsible for assigning addresses for parcels within the City of Tigard and within the Urban Service Boundary (USB). An addressing fee in the amount of \$50.00 per address shall be assessed. This fee shall be paid to the City prior to issuance of the Site permit.

For multi-tenant buildings, one address number is assigned to the building and then all tenant spaces are given suite numbers. The City is responsible for assigning the main address and suite numbers. This information is needed so that building permits for tenant improvements can be adequately tracked in the City's permit tracking system. Based upon the information provided by the applicant, this building will be a multi-tenant building. Prior to issuance of the site permit, the applicant shall provide a suite layout map so suite numbers can be assigned. The addressing fee will then be calculated based upon the number of suites that must be addressed. In multi-level structures, ground level suites shall have numbers preceded by a "1", second level suites shall have numbers preceded by a "2", etc.

The developer will also be required to provide signage at the entrance of each shared flag lot driveway or private street that lists the addresses that are served by the given driveway or street. This will assist emergency services personnel to more easily find a particular home.

FINDING: The application has not demonstrated compliance with all applicable Street and Utility Standards. With the following conditions of approval the standards can be met.

CONDITIONS:

- Prior to issuance of a site permit, a Public Facility Improvement (PFI) permit is required for this project to cover half-street improvements and any other work in the public right-of-way. Six (6) sets of detailed public improvement plans shall be submitted for review to the Engineering Department. NOTE: these plans are in addition to any drawings required by the Building Division and should only include sheets relevant to public improvements. Public Facility Improvement (PFI) permit plans shall conform to City of Tigard Public Improvement Design Standards, which are available at City Hall and the City's web page (www.tigard-or.gov).
- The PFI permit plan submittal shall include the exact legal name, address and telephone number of the individual or corporate entity who will be designated as the "Permittee", and who will provide the financial assurance for the public improvements. For example, specify if the entity is a corporation, limited partnership, LLC, etc. Also specify the state within which the entity is

incorporated and provide the name of the corporate contact person. Failure to provide accurate information to the Engineering Department will delay processing of project documents.

- The applicant shall provide a construction vehicle access and parking plan for approval by the City Engineer. The purpose of this plan is for parking and traffic control during the public improvement construction phase.
- Prior to issuance of the site permit, the applicant shall submit a suite layout map to Bethany Stewart, Engineering Department. If the applicant is not sure how many suites will be used, they must estimate a number. The City will then assign suite numbers and the address fee will then be calculated. The fee must be paid by the applicant prior to issuance of the site permit. (STAFF CONTACT: Bethany Stewart, Engineering).
- The applicant shall provide signage at the entrance of each shared flag lot driveway or private street that lists the addresses that are served by the given driveway or street.
- Additional right-of-way shall be dedicated to the Public along the frontage of 95th Avenue to increase the right-of-way to 27 feet from the centerline. The description shall be tied to the existing right-of-way centerline. The dedication document shall be on City forms. Instructions are available from the Engineering Department.
- The applicant shall submit construction plans to the Engineering Department as a part of the Public Facility Improvement permit, which indicate that they will construct a half-street improvement along the frontage of 95th Avenue. The improvements adjacent to this site shall include:
 - A. City standard pavement section for a Neighborhood Route from curb to centerline equal to 16 feet, but in no case shall the total pavement width be less than 24 feet;
 - B. pavement tapers needed to tie the new improvement back into the existing edge of pavement shall be built beyond the site frontage;
 - C. concrete curb, or curb and gutter as needed;
 - D. storm drainage, including any off-site storm drainage necessary to convey surface and/or subsurface runoff;
 - E. 5 foot concrete sidewalk with a 5 foot planter strip;
 - F. street trees in the planter strip spaced per TDC requirements;
 - G. street striping;
 - H. streetlight layout by applicant's engineer, to be approved by City Engineer;
 - I. underground utilities;
 - J. street signs (if applicable);
 - K. driveway apron (if applicable); and
 - L. adjustments in vertical and/or horizontal alignment to construct SW 95th Avenue in a safe manner, as approved by the Engineering Department.
- A profile of 95th Avenue shall be required, extending 300 feet either side of the subject site showing the existing grade and proposed future grade.
- The applicant's construction drawings shall show that the proposed public pedestrian access from the development frontage to the Tri-Met bus stop will be a minimum 4 foot concrete sidewalk.
- The applicant shall provide connection of proposed buildings to the public sanitary sewerage system. A connection permit is required to connect to the existing public sanitary sewer system.
- The applicant shall provide a 15 foot public sewer easement at the south westerly property boundary. The public sanitary sewer shall be extended to the north side of the wetland buffer, terminating with a manhole.
- The applicant shall obtain approval from the Tualatin Valley Water District for the proposed water connection prior to issuance of the City's Public Facility Improvement permit.
- The applicant's engineer shall coordinate that design and construction of the public storm sewer in 95th Avenue and the discharge into Ash Creek with the engineers for the Livingston Lane Subdivision.

- Final design plans and calculations for the proposed private water quality facility shall be submitted to the Engineering Department (Kim McMillan) as a part of the Public Facility Improvement (PFI) permit plans. The plans shall be revised to provide a Stormwater Management vault, pond or swale. The Stormwater Management manhole will not be allowed.
- An erosion control plan shall be provided as part of the Public Facility Improvement (PFI) permit drawings. The plan shall conform to the "Erosion Prevention and Sediment Control Design and Planning Manual, February 2003 edition."
- The applicant shall obtain a 1200-C General Permit issued by the City of Tigard pursuant to ORS 468.740 and the Federal Clean Water Act.
- Prior to a final building inspection, the applicant shall complete the required public improvements, obtain conditional acceptance from the City, and provide a one-year maintenance assurance for said improvements.
- Prior to a final building inspection, the applicant shall provide the City with as-built drawings of the public improvements as follows: 1) 3 mil mylar, 2) a diskette of the as-builts in "DWG" format, if available; otherwise "DXF" will be acceptable, and 3) the as-built drawings shall be tied to the City's GPS network. The applicant's engineer shall provide the City with an electronic file with points for each structure (manholes, catch basins, water valves, hydrants and other water system features) in the development, and their respective X and Y State Plane Coordinates, referenced to NAD 83 (91).
- The applicant shall either place the existing overhead utility lines along SW 95th Avenue underground as a part of this project, or they shall pay the fee in-lieu of undergrounding. The fee shall be calculated by the frontage of the site that is parallel to the utility lines and will be \$35.00 per lineal foot. If the fee option is chosen, the amount will be \$4,130.00 and it shall be paid prior to prior to final building inspection.
- Prior to a final building inspection, the applicant shall demonstrate that they have entered into a maintenance agreement with Stormwater Management, or another company that demonstrates they can meet the maintenance requirements of the manufacturer, for the proposed onsite storm water treatment facility.

E. IMPACT STUDY (18.390)

Section 18.360.090 states, "The Director shall make a finding with respect to each of the following criteria when approving, approving with conditions or denying an application."

Section 18.390.040 states that the applicant shall provide an impact study to quantify the effect of development on public facilities and services. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standard, and to minimize the impact of the development on the public at-large, public facilities systems, and affected private property users.

In situations where the Community Development Code requires the dedication of real property interests, the applicant shall either specifically concur with a requirement for public right-of-way dedication, or provide evidence that supports that the real property dedication is not roughly proportional to the projected impacts of the development. Section 18.390.040 states that when a condition of approval requires the transfer to the public of an interest in real property, the approval authority shall adopt findings which support the conclusion that the interest in real property to be transferred is roughly proportional to the impact the proposed development will have on the public.

The applicant has provided an impact study addressing the project's impacts on public systems. The Washington County Traffic Impact Fee (TIF) is a mitigation measure that is required at the time of development. Based on a transportation impact study prepared by Mr. David Larson for the A-Boy Expansion/Dolan II/Resolution 95-61, TIF's are expected to recapture 32 percent of the traffic impact of new development on the Collector and Arterial Street system. The TIF rate is currently \$285 per average weekday trip. Residential condominiums have a weekday average trip rate of 5.86. Therefore, the applicant will be required to pay TIF's of approximately \$71,814.

Based on the estimate that total TIF fees cover 32 percent of the impact on major street improvements citywide, a fee that would cover 100 percent of this projects traffic impact is \$224,419 (\$71,814 divided by 32)

The difference between the TIF paid, and the full impact, is considered the unmitigated impact on the street system. In this case the value of the unmitigated impact is \$152,605.

The applicant will be dedicating approximately 881 square feet of right-of-way on SW 95th Avenue, and will also be required to construct a new sidewalk. The value of these exactions is:

| | |
|--|-----------------|
| Right-of-way dedications, 881 s.f. (117.48 feet of frontage x 7.5 feet) @ 3.00 per s.f. | \$2,643. |
| Sidewalk Improvement, 450 Lf. @ 20.00 per Lf. | \$9,000. |
| Half street improvement along approximately 117 lineal feet of SW 95 th Avenue @ \$200/ lineal foot | \$23,400 |
| TOTAL | \$35,043 |

FINDING: Since the value of the exactions is less than the value of the remaining unmitigated impact, these exactions are proportionate and justified.

SECTION VIII. OTHER STAFF COMMENTS

The City of Tigard Building Division has reviewed the proposal and has no objections to it.

The City of Tigard Public Works Department has reviewed the proposal and has offered comments regarding storm outfalls and culverting at 10940 SW 95th that have been incorporated into this decision.

The City of Tigard Police Department has reviewed the proposal and has no objections to it.

The City of Tigard Forester has reviewed the proposal whose comments have been included in the body of this decision.

SECTION IX. AGENCY COMMENTS

The Department of State Lands states that the wetland delineation associated with the wetland located on site has been submitted, but not yet approved. A Tier II level review has been assigned to the delineation as the proposed development does not require any removal of fill in the wetland.

Washington County has reviewed the proposal and has provided comments regarding access and improvement to SW 95th Avenue, which are included in the body of this decision.

The Tualatin Valley Water District has reviewed the proposal and has no objections to it.

The Tualatin Valley Fire and Rescue has reviewed the proposal and endorses it predicated on the following criteria and conditions of approval:

In an email from Eric McMullen, TVFR Deputy Fire Marshall, to Albert Castaneda, Alpha Community Development, dated January 31, 2006 Mr. McMullen states "the proposed location for the fire hydrant is acceptable. Fire apparatus access looks good also as long as parking is allowed in the spaces shown on the plan only. The roadways throughout the development will need to be posted as a fire lane. The above stated conditions are predicated on the installation of fire sprinklers in all buildings."

In addition, in an April 5, 2006 letter to the City, John Dalby submitted the following general comments:

- 1) FIRE APPARATUS ACCESS ROAD DISTANCE FROM BUILDING AND TURNAROUNDS: Access roads shall be within 150 feet of all portions of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building. An approved turnaround is required if the remaining distance to an approved intersecting roadway, as measured along the fire apparatus access road, is greater than 150 feet.

- 2) **DEAD END ROADS:** Dead end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved turnaround.
- 3) **FIRE APPARATUS ACCESS ROAD EXCEPTION FOR AUTOMATIC SPRINKLER PROTECTION:** When buildings are completely protected with an approved automatic fire sprinkler system, the requirements for fire apparatus access may be modified as approved by the fire code official.
- 4) **ADDITIONAL ACCESS ROADS - COMMERCIAL:** Where buildings exceed 30 feet in height or three stories in height shall have at least three separate means of fire apparatus access. Buildings or facilities having a gross area of more than 62,000 square feet shall be provided with at least two separate means of fire apparatus access. Buildings up to 124,000 square feet provided with fire sprinklers may have a single access.
- 5) **ADDITIONAL ACCESS ROADS - ONE-OR TWO-FAMILY RESIDENTIAL:** Where there are more than 30 one- or two-family dwelling units, not less than two separate approved means of access shall be provided. Where there are more than 30 dwelling units and all are protected by approved residential sprinkler systems, a single access will be allowed.
- 6) **ADDITIONAL ACCESS ROADS - MULTIPLE-FAMILY RESIDENTIAL:** Where there are more than 100 multiple-family dwelling units, not less than two separate approved means of access shall be provided. Projects up to 200 dwelling units that are protected by approved residential sprinkler systems may have a single access. Projects having more than 200 dwelling units shall have two separate approved means of access regardless of whether they are equipped with fire sprinkler systems.
- 7) **AERIAL FIRE APPARATUS ACCESS:** Buildings or portions of buildings or facilities exceeding 30 feet in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway. Fire apparatus access roads shall have a minimum unobstructed width of 26 feet in the immediate vicinity of any building or portion of building more than 30 feet in height. At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet and a maximum of 30 feet from the building, and shall be positioned parallel to one entire side of the building.
- 8) **REMOTENESS:** Where two access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses.
- 9) **FIRE APPARATUS ACCESS ROAD WIDTH AND VERTICAL CLEARANCE:** Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (12 feet for up to two dwelling units and accessory buildings), and an unobstructed vertical clearance of not less than 13 feet 6 inches. Where fire apparatus roadways are less than 26 feet wide, "NO PARKING" signs shall be installed on both sides of the roadway and in turnarounds as needed. Where fire apparatus roadways are more than 28 feet wide but less than 32 feet wide, "NO PARKING" signs shall be installed on one side of the roadway and in turnarounds as needed. Where fire apparatus roadways are 32 feet wide or more, parking is not restricted.
- 10) **FIRE APPARATUS ACCESS ROADS WITH FIRE HYDRANTS:** Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet.
- 11) **TURNOUTS:** When any fire apparatus access road exceeds 400 feet in length, turnouts 10 feet wide and 30 feet long shall be provided in addition to the required road width and shall be placed no more than 400 feet apart, unless otherwise approved by the fire code official. These distances may be adjusted based on visibility and light distances. (OFC Chapter 5)
- 12) **NO PARKING SIGNS:** Where fire apparatus roadways are not of sufficient width to accommodate parked vehicles and 20 feet of unobstructed driving surface, "No Parking" signs shall be installed on one or both sides of the roadway and in turnarounds as needed. Roads 26 feet wide or less shall be posted on both sides as a fire lane. Roads more than 26 feet wide to 32 feet wide shall be posted on one side as a fire lane. Signs shall read "NO PARKING - FIRE LANE" and shall be installed with a clear space above grade level of 7 feet. Signs shall be 12 inches wide by 18 inches high and shall have red letters on a white reflective background.

- 13) **SURFACE AND LOAD CAPACITIES:** Fire apparatus access roads shall be of an all-weather surface that is easily distinguishable from the surrounding area and is capable of supporting not less than 12,500 pounds point load (wheel load) and 75,000 pounds live load (gross vehicle weight). You may need to provide documentation from a registered engineer that the design will be capable of supporting such loading.
- 14) **BRIDGES:** Where a bridge or an elevated surface is part of a fire apparatus access road, the bridge shall be constructed and maintained in accordance with AASHTO *Standard Specification for Highway Bridges*. Bridges and elevated surfaces shall be designed for a live load sufficient to carry the imposed loads of fire apparatus. Vehicle load limits shall be posted at both entrances to bridges when required by the fire code official. Where elevated surfaces designed for emergency vehicle use are adjacent to surfaces which are not designed for such use, approved barriers, approved signs or both shall be installed and maintained when required by the fire code official.
- 15) **TURNING RADIUS:** The inside turning radius and outside turning radius shall be not less than 28 feet and 48 feet respectively, measured from the same center point.
- 16) **PAINTED CURBS:** Where required, fire apparatus access roadway curbs shall be painted red and marked "NO PARKING FIRE LANE" at approved intervals. Lettering shall have a stroke of not less than one inch wide by six inches high. Lettering shall be white on red background.
- 17) **GRADE:** Fire apparatus access roadway grades shall not exceed 10 percent. Intersections and turnarounds shall be level (maximum 5%) with the exception of crowning for water run-off. When fire sprinklers are installed, a maximum grade of 15% may be allowed. The approval of fire sprinklers as an alternate shall be accomplished in accordance with the provisions of ORS 455.610(5).
- 18) **GATES:** Gates securing fire apparatus roads shall comply with all of the following:
- Minimum unobstructed width shall be 16 feet, or two 10 foot sections with a center post or island.
 - Gates serving one- or two-family dwellings shall be a minimum of 12 feet in width.
 - Gates shall be set back at minimum of 30 feet from the intersecting roadway.
 - Gates shall be of the swinging or sliding type
 - Manual operation shall be capable by one person
 - Electric gates shall be equipped with a means for operation by fire department personnel
 - Locking devices shall be approved.
- 19) **SINGLE FAMILY DWELLINGS - REQUIRED FIRE FLOW:** The minimum available fire flow for single family dwellings and duplexes served by a municipal water supply shall be 1,000 gallons per minute. If the structure(s) is (are) 3,600 square feet or larger, the required fire flow shall be determined according to IFC Appendix B.
- 20) **FIRE HYDRANTS - ONE- AND TWO-FAMILY DWELLINGS & ACCESSORY STRUCTURES:** Where a portion of a structure is more than 600 feet from a hydrant on a fire apparatus access road, as measured in an approved route around the exterior of the structure(s), on-site fire hydrants and mains shall be provided.
- 21) **FIRE HYDRANT NUMBER AND DISTRIBUTION:** The minimum number and distribution of fire hydrants available to a building shall not be less than that listed in Appendix C, Table C105.1.
- Considerations for placing fire hydrants may be as follows:
- Existing hydrants in the area may be used to meet the required number of hydrants as approved. Hydrants that are up to 600 feet away from the nearest point of a subject building that is protected with fire sprinklers may contribute to the required number of hydrants.
 - Hydrants that are separated from the subject building by railroad tracks shall not contribute to the required number of hydrants unless approved by the fire code official.
 - Hydrants that are separated from the subject building by divided highways or freeways shall not contribute to the required number of hydrants. Heavily traveled collector streets only as approved by the fire code official.
 - Hydrants that are accessible only by a bridge shall be acceptable to contribute to the required number of hydrants only if approved by the fire code official.

- 22) **FIRE HYDRANT DISTANCE FROM AN ACCESS ROAD:** Fire hydrants shall be located not more than 15 feet from an approved fire apparatus access roadway.
- 23) **REFLECTIVE HYDRANT MARKERS:** Fire hydrant locations shall be identified by the installation of reflective markers. The markers shall be blue. They shall be located adjacent and to the side of the centerline of the access road way that the fire hydrant is located on. In case that there is no center line, then assume a centerline, and place the reflectors accordingly
- 24) **ACCESS AND FIRE FIGHTING WATER SUPPLY DURING CONSTRUCTION:** Approved fire apparatus access roadways and fire fighting water supplies shall be installed and operational prior to any combustible construction or storage of combustible materials on the site.

SECTION X PROCEDURE AND APPEAL INFORMATION

Notice:

Notice was posted at City Hall and mailed to:

- ☒ The applicant and owners
☒ Owner of record within the required distance
☒ Affected government agencies

Final Decision:

THIS DECISION IS FINAL ON JUNE 21, 2006 AND BECOMES EFFECTIVE ON JULY 7, 2006 UNLESS AN APPEAL IS FILED.

Appeal:


The decision of the Director (Type II Procedure) or Review Authority (Type II Administrative Appeal or Type III Procedure) is final for purposes of appeal on the date that it is mailed. Any party with standing as provided in Section 18.390.040.G.1. may appeal this decision in accordance with Section 18.390.040.G.2. of the Tigard Community Development Code which provides that a written appeal together with the required fee shall be filed with the Director within ten (10) business days of the date the notice of the decision was mailed. The appeal fee schedule and forms are available from the Planning Division of Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon 97223.

Unless the applicant is the appellant, the hearing on an appeal from the Director's Decision shall be confined to the specific issues identified in the written comments submitted by the parties during the comment period. Additional evidence concerning issues properly raised in the Notice of Appeal may be submitted by any party during the appeal hearing, subject to any additional rules of procedure that may be adopted from time to time by the appellate body.


THE DEADLINE FOR FILING AN APPEAL IS AT 5:00 PM ON JULY 6, 2006.

Questions:

If you have any questions, please call the City of Tigard Planning Division, Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon at (503) 639-4171.

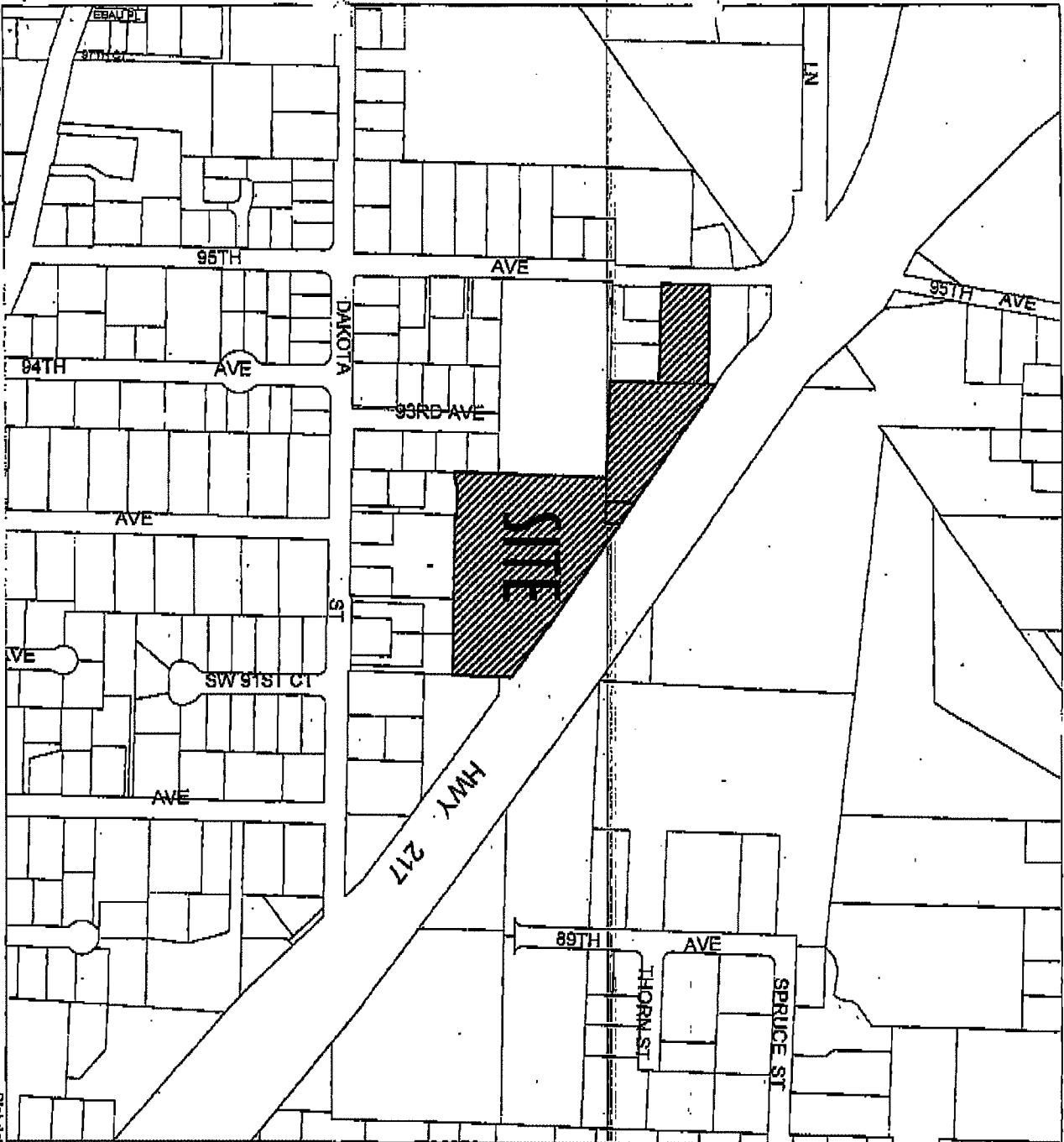

 PREPARED BY: Gary Pagenstecher
 Associate Planner

June 20, 2006
 DATE


 APPROVED BY: Richard Bowersdorff
 Planning Manager

June 20, 2006
 DATE

Community Development



Plot data: Feb 7, 2006; C:\img\GMA\GIC03.APR

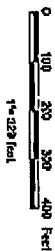
Information on this map is for general location only and should be verified with the Development Services Division.

131.21.90 H&I SW4

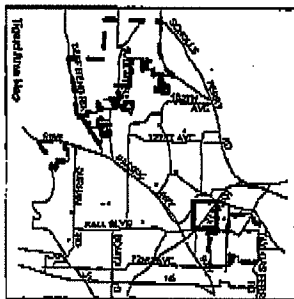
1500-009-1171

http://www.ci.fargo.nd.us

City of Fargo



N



CITY OF FARGO

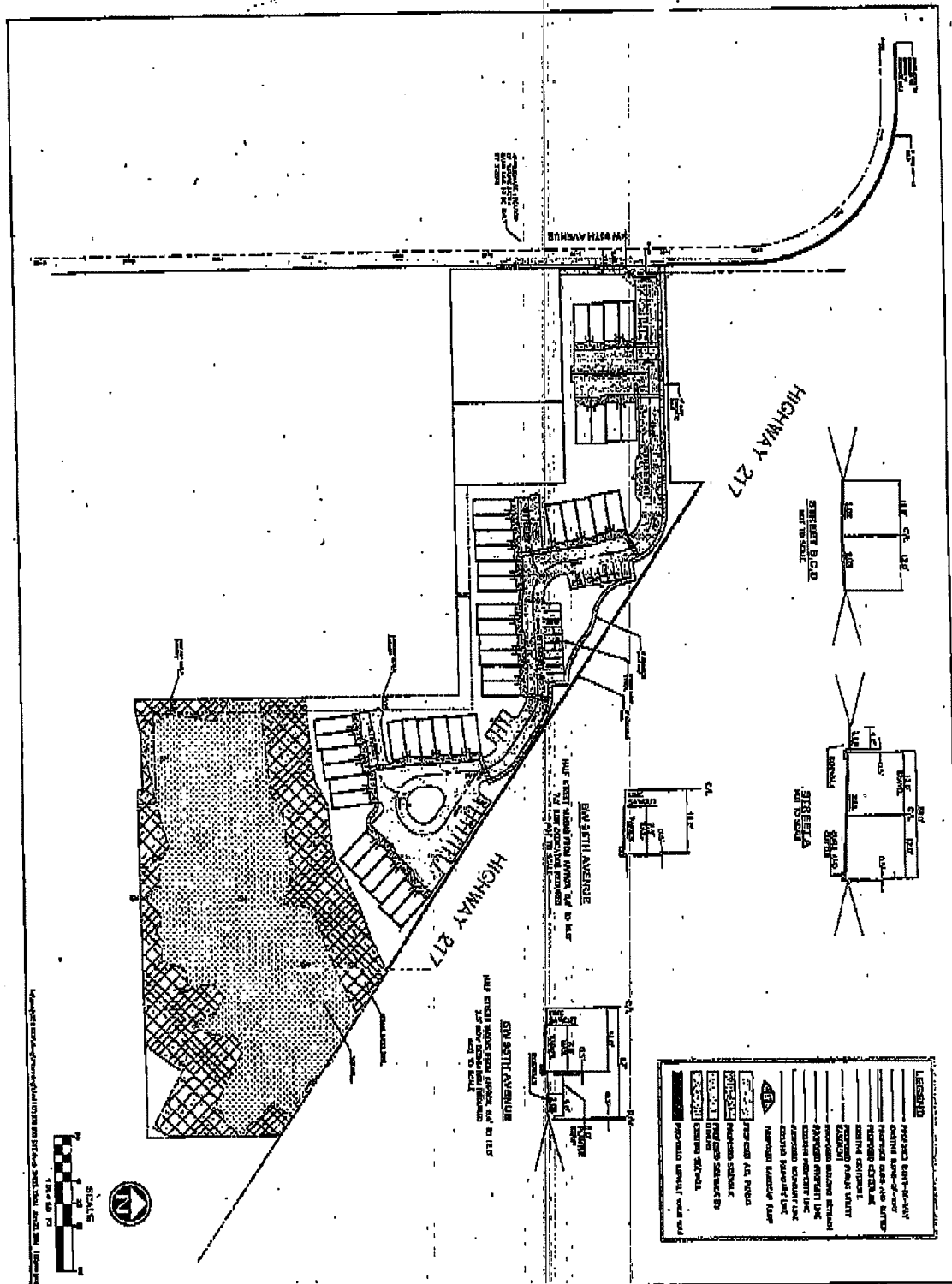
GEOSPATIAL INFORMATION SYSTEMS

VICINITY MAP

SDR2005-00011

SLR2005-00021

**LONGSTAFF
CONDOMINIUMS**



alpha
COMMUNITY
DEVELOPMENT

9420 PRINCE OF WALES DR.
FARMINGDALE, NY 11735
916-241-2200 FAX 916-241-2204
WWW.ALPHACOMMUNITY.ORG

REVIEWS
NO. DATE REVIEWER

REVISIONS
NO. DATE REVISION

ABRAMS
PROPERTY

SITE PLAN

alpha
QUALITY PRELIMINARY

| PRODUCT NAME | SOURCE |
|----------------------|---------|
| TSP/PM ₁₀ | FEDERAL |
| DATA: | |

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8 IN THE CIRCUIT COURT OF THE STATE OF OREGON
9 FOR THE COUNTY OF WASHINGTON

10 PALMER & ASSOCIATES,

11 Relator,

12 v.

13 CITY OF TIGARD, a municipal corporation of
14 the State of Oregon,

15 Defendant.
16

Case No.

[PROPOSED] ORDER ALLOWING
PETITION FOR ALTERNATIVE WRIT OF
MANDAMUS

17 This matter came before the Court on Relator Palmer & Associates' Petition for Alternative
18 Writ of Mandamus. Based upon the petition of the Relator, and the records and files herein,

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1 IT IS HEREBY ORDERED that Relator's Petition for Alternative Writ of Mandamus is
2 allowed. IT IS FURTHER

3 ORDERED that the Clerk of the Court shall forthwith issue the Writ of Mandamus
4 commanding that the City of Tigard either (1) upon receipt of the Writ immediately approve the
5 Relator's application for the development of the residential development described in the Relator's
6 Petition; or (2) appear before this Court or a Judge hereof, on the ____ day of _____, 2006, at
7 _____ in Room ____ of the Washington County Courthouse, Hillsboro, Oregon, to show cause
8 why the City of Tigard has not approved Relator's application.

9
10 DATED this ____ day of _____, 2006.

11
12
13 _____
14 CIRCUIT COURT JUDGE

15 Submitted by:

16 GARVEY SCHUBERT BARER

17 Carrie A. Richter, OSB #00370
18 Edward J. Sullivan, OSB #69167
19 Adam R. Kelly, OSB #02343
121 SW Morrison Street, Suite 1100
Portland, OR 97204
Telephone: (503) 228-3939
Attorneys for Relator


20 PDX_DOCS:378118.1 [36248-00200]
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing [PROPOSED] ORDER ALLOWING PETITION FOR
ALTERNATIVE WRIT OF MANDAMUS was served on:

Timothy V. Ramis
Gary Firestone
Ramis Crew Corrigan & Bachrach, LLP
1727 NW Hoyt Street
Portland, OR 97209
Attorney for City of Tigard
Fax: (503) 243-2944

by faxing to them a copy of the original thereof on August 23, 2006.


Carrie A. Richter, OSB #00370
Edward J. Sullivan, OSB #69167
Adam R. Kelly, OSB #02343

Attorneys for Relator

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7 IN THE CIRCUIT COURT OF THE STATE OF OREGON
8 FOR THE COUNTY OF WASHINGTON
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10 PALMER & ASSOCIATES,

11 Relator,

12 v.

13 CITY OF TIGARD, a municipal corporation of
14 the State of Oregon,

15 Defendant.

Case No.

ALTERNATIVE WRIT OF MANDAMUS

16 TO: City of Tigard City Council:

17 From the petition of the Relator Palmer & Associates ("Relator") on behalf of the property
18 owner, David Abrams, the following facts appear:

19 1.

20 Relator is seeking to develop a 43-unit attached residential development on 4.98 acre parcel of
21 real property located at 10890 SW 95th Avenue, located within the City of Tigard, Oregon.

22 2.

23 David Abrams is the owner of the real property located at 10890 SW 95th Avenue, located in
24 the City of Tigard, Oregon.

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3.

Defendant City of Tigard (hereinafter the "City") is a municipal corporation organized and existing under the laws of the State of Oregon with principal offices located at 13125 SW Hall Boulevard, Tigard, OR 97223-8189 and has jurisdiction over the land use decisions and limited land use decisions described in this Writ.

4.

On September 13, 2005, Relator filed an application with Defendant seeking to develop a 43-unit attached residential development on 4.98 acre parcel of land as described in Paragraph 1 of this writ.

5.

Defendant deemed this application complete on February 6, 2006.

6.

The application was approved by Defendant's Director of Community Development on June 20, 2006, subject to several conditions of approval. Relator is amenable to these conditions.

7.

On July 6, 2006, an appeal was filed challenging the Defendant's approval described in Paragraph 6. No hearing has been held regarding the appeal and no final decision has been made by the City.

8.

Pursuant to ORS 227.179(1), if the governing body of the City does not take final action on an application for a limited land use decision or permit within 120 days after the application is deemed complete, the applicant therefor may apply in the Circuit Court of the county where the application was filed for a writ of mandamus to compel the governing body to issue the approval. Relator's application for development is a land use permit decision and is subject to ORS 227.179(1).

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9.

The 120-day period expired on June 6, 2006. Relator has not requested an extension of the 120-day period and this application is not subject to any of the exceptions provided by ORS 227.178(5) and (6). The City has not taken final action on Relator's application to this date, and Relator is entitled to the issuance of a writ of mandamus pursuant to ORS 227.179(1), compelling the City to approve Relator's application.

10.

Because approval of the application would not violate a substantive provision of the City's comprehensive plan or land use regulations as defined in ORS 197.015, Relator is entitled to approval pursuant to ORS 227.179(5).

11.

Pursuant to ORS 227.178(8), Relator is entitled to a refund of either the unexpended portion of the application fees or deposits previously paid by the Relator or 50% of the total amount of such fees or deposits, whichever is greater.

12.

Pursuant to ORS 34.210(2), Relator is entitled to recover its attorneys' fees, costs and disbursements incurred herein.

13.

Relator has no plain, speedy, and adequate remedy in the ordinary course of law.

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1 WHEREFORE, you are commanded, immediately after your receipt of this Writ to approve
2 the application; or to appear before this Court or a Judge hereof, on the ____ day of _____,
3 2006, at ____ a.m./p.m. in Room _____ of the Washington County Courthouse, Hillsboro, Oregon,
4 to show cause why you have not approved the application. You are further commanded then and
5 there to return this Writ with your Certificate annexed, showing that you have approved the
6 application or showing cause for your omission to do so.

7 DATED this ____ day of August, 2006.

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10 _____
11 Court Administrator
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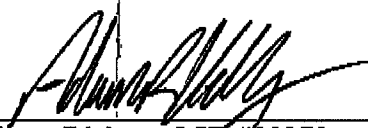
CERTIFICATE OF SERVICE

I hereby certify that the foregoing **ALTERNATIVE WRIT OF MANDAMUS** was served

on:

Timothy V. Ramis
Gary Firestone
Ramis Crew Corrigan & Bachrach, LLP
1727 NW Hoyt Street
Portland, OR 97209
Attorney for City of Tigard
Fax: (503) 243-2944

by faxing to them a copy of the original thereof on August 23, 2006.


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Edward J. Sullivan, OSB #69167
Adam R. Kelly, OSB #02343

Attorneys for Relator

PDX_DOCS:378058.1 [36248-00200]

Pre-Application Conference Notes
To Change Existing Residential Use to Office Use
For Richard Braem
August 24, 2006

In your Pre-Application Conference Request, you asked the City if there was any way of getting a Minor Modification Type I review instead of a Type II Site Development Review for your proposed use. Below I have outlined the code provision that establish the City's code-based authority to require site plan review in this case. A change from a permitted residential use to a permitted commercial use (office) is subject to site development review as follows:

CDC 18.360.020 makes site development review applicable to "all new developments and major modification of existing development."

CDC 18.360.030A states:

New developments and major modifications. Site development review for a new development or major modification of an approved plan or existing development, as defined in Section 18.120.030A, shall be processed by means of a Type II procedure, as governed by Section 18.390.040, using approval criteria contained in Section 18.360.090.

CDC 18.120.030A.56 defines development to include "a material change in the use or appearance of a structure or land". A change in use from residential use to commercial use is a material change. It is a change from one major category (residential) to another major category (commercial). Also, it is a change from a use that is not subject to site development review (single family residential) to one that is (commercial office). This is a material change.

Therefore the change in use triggers site development review under a Type II procedure. The submission requirements for a Type II review are established by CDC 18.360.070 and include a site plan. The approval criteria are set out in CDC 18.360.090. Type II procedural regulations are found in CDC 18.390.040.

Furthermore, CDC 18.210.040 allows development to be used only for uses for which the development is designed, arranged or intended. Use of a single family residence for commercial purpose is not a use for which the development is designed, arranged or intended, unless a site development review approval is obtained to allow a different use and any necessary reconfigurations of the development.

In addition, Pursuant to CDC 18.360.050.B.3, the Director shall determine that a major modification (Type II review) will result if one or more of eleven listed changes are proposed, including #3 which states "a change that requires additional on-site parking in accordance with Chapter 18.765". Chapter 18.765 includes Table 18.765.2, Minimum and Maximum Required Off-street Vehicle and Bicycle Parking Requirements. This table shows that the required parking for a single-family detached dwelling is 1 space per 1,000 square feet, and that the minimum required parking for an office use is 2.7 spaces per 1,000 square feet, resulting in a major modification requiring Type II review.

MEMORANDUM

TO: Tom Coffee, Dick Berwersdorff

FROM: Gary Pagenstecher

SUBJECT: Longstaff Condominiums (SDR2005-00011)

DATE: August 25, 2006

The filing of the Petition for Alternative Writ of Mandamus on August 24, 2006 begs the question of just how such a rare event as this happened in the City of Tigard. Below I provide a chronology that may help answer this question, in part. The chronology includes the background staffing and workload conditions and the actions and dates pertaining to the Longstaff review during the period between receipt of the application on November 11, 2005 and the filing of the Writ of Mandamus on August 24, 2006.

Staffing

Current Planning has undergone significant staff transitions over the past year with the departure of Associate Planners Morgan Tracey in August 2005, Matt Scheidigger in December 2005, and James Richards October -December 2005. Two Assistant Planners replaced the associate planners in Dec 2005 and March 2006. Outside consultants were used during this turnover period from January through May 2006 to assist with four decisions.

Workload

During the Longstaff review period, staff workload was the highest it has been in years measured by the number and complexity of reviews. Pagenstecher, the only remaining Associate Planner (normally there are three Associates) had 18 applications at the time Longstaff was found complete, compared to the regular case load of seven to ten applications.

Chronology of the Longstaff Review

| | |
|----------|--|
| 11/17/05 | Application received |
| 12/15/05 | Letter of incompleteness |
| 2/6/06 | Letter of completeness [120-day deadline 6/6/06] |
| 2/20/06 | End of comment period [based on comments, decision to review in-house] |
| 4/3/06 | Target decision date |
| 4/19/06 | Staff review turned up issues requiring additional information |
| 4/26/06 | Meeting with applicant and agreement to 30-day extension of 120-day deadline to 7/6/06 |
| 5/10/06 | Supplemental materials received |
| 6/2/06 | City requests additional 30-day extension; 6-23-06 revised target decision date |
| 6/5/06 | Applicant denies extension request |
| 6/15/06 | Engineering Comments Completed |
| 6/20/06 | Decision issued |
| 7/6/06 | Appeal deadline; Beilke appeal received [120-day deadline] |
| 7/11/06 | Appeal Hearing set for August 28, 2006 |
| 8/24/06 | Writ of Mandamus filed; Appeal hearing canceled |